

1 A bill to be entitled
2 An act relating to energy; providing
3 legislative findings and intent; creating s.
4 377.801, F.S.; creating the "Florida Renewable
5 Energy Technologies and Energy Efficiency Act";
6 creating s. 377.802, F.S.; stating the purpose
7 of the act; creating s. 377.803, F.S.;
8 providing definitions; creating s. 377.804,
9 F.S.; creating the Renewable Energy
10 Technologies Grants Program; providing program
11 requirements and procedures, including matching
12 funds; requiring the Department of
13 Environmental Protection to adopt rules and
14 coordinate with the Department of Agriculture
15 and Consumer Services; requiring joint
16 departmental approval for the funding of any
17 project; specifying a period during which the
18 sale of energy-efficient products is exempt
19 from certain tax; providing a limitation;
20 providing a definition; prohibiting purchase of
21 products by certain payment methods; providing
22 that certain purchases or attempts to purchase
23 are unfair methods of competition and
24 punishable as such; authorizing the Department
25 of Revenue to adopt rules; creating s. 377.806,
26 F.S.; creating the Solar Energy System
27 Incentives Program; providing program
28 requirements, procedures, and limitations;
29 requiring the Department of Environmental
30 Protection to adopt rules; creating the Florida
31 Energy Commission within the Office of

1 | Legislative Services; providing for
2 | appointment, qualifications, and terms of
3 | members; authorizing certain persons to attend
4 | meetings of and advise the commission;
5 | providing for reimbursement for travel expenses
6 | and per diem; providing for meetings; providing
7 | purposes and guiding principles of the
8 | commission; requiring recommendations and
9 | reports; providing legislative intent;
10 | providing rulemaking authority; amending s.
11 | 212.08, F.S.; providing definitions for the
12 | terms "biodiesel," "ethanol," and "hydrogen
13 | fuel cells"; providing tax exemptions in the
14 | form of a rebate for the sale or use of certain
15 | equipment, machinery, and other materials for
16 | renewable energy technologies; providing
17 | eligibility requirements and tax credit limits;
18 | authorizing the Department of Revenue to adopt
19 | rules; directing the Department of
20 | Environmental Protection to determine and
21 | publish certain information relating to such
22 | exemptions; providing for expiration of the
23 | exemption; amending s. 213.053, F.S.;
24 | authorizing the Department of Revenue to share
25 | certain information with the Department of
26 | Environmental Protection for specified
27 | purposes; amending s. 220.02, F.S.; providing
28 | the order of application of the renewable
29 | energy technologies investment tax credit;
30 | creating s. 220.192, F.S.; providing
31 | definitions; establishing a corporate tax

1 credit for certain costs related to renewable
2 energy technologies; providing eligibility
3 requirements and credit limits; providing
4 certain authority to the Department of
5 Environmental Protection and the Department of
6 Revenue; directing the Department of
7 Environmental Protection to determine and
8 publish certain information; providing for
9 expiration of the tax credit; creating s.
10 220.193, F.S.; creating the Florida renewable
11 energy production credit; providing
12 definitions; providing a tax credit for the
13 production and sale of renewable Florida
14 energy; providing for the use and transfer of
15 the tax credit; authorizing the Department of
16 Revenue to adopt rules concerning the tax
17 credit; amending s. 220.13, F.S.; providing
18 additions to the definition of "adjusted
19 federal income"; amending s. 186.801, F.S.;
20 revising the provisions of electric utility
21 10-year site plans to include the effect on
22 fuel diversity; amending s. 366.04, F.S.;
23 revising the safety standards for public
24 utilities; amending s. 366.05, F.S.;
25 authorizing the Public Service Commission to
26 adopt certain construction standards and make
27 certain determinations; directing the
28 commission to conduct a study and provide a
29 report by a certain date; creating s. 366.92,
30 F.S.; relating to the Florida renewable energy
31 policy; providing intent; providing

1 definitions; authorizing the Florida Public
2 Service Commission to adopt goals for
3 increasing the use of Florida renewable energy
4 resources; authorizing the commission to adopt
5 rules; requiring the commission to conduct a
6 study and review; providing criteria for such
7 study and a review; requiring the commission to
8 provide a review and recommendations to the
9 Governor and Legislature by a certain date;
10 amending s. 403.503, F.S.; revising and
11 providing definitions applicable to the Florida
12 Electrical Power Plant Siting Act; amending s.
13 403.504, F.S.; providing the Department of
14 Environmental Protection with additional powers
15 and duties relating to the Florida Electrical
16 Power Plant Siting Act; amending s. 403.5055,
17 F.S.; revising provisions for certain permits
18 associated with applications for electrical
19 power plant certification; amending s. 403.506,
20 F.S.; revising provisions relating to
21 applicability and certification of certain
22 power plants; amending s. 403.5064, F.S.;
23 revising provisions for distribution of
24 applications and schedules relating to
25 certification; amending s. 403.5065, F.S.;
26 revising provisions relating to the appointment
27 of administrative law judges and specifying
28 their powers and duties; amending s. 403.5066,
29 F.S.; revising provisions relating to the
30 determination of completeness for certain
31 applications; creating s. 403.50663, F.S.;

1 authorizing certain local governments and
2 regional planning councils to hold an
3 informational public meeting about a proposed
4 electrical power plant or associated
5 facilities; providing requirements and
6 procedures therefor; creating s. 403.50665,
7 F.S.; requiring local governments to file
8 certain land use determinations; providing
9 requirements and procedures therefor; repealing
10 s. 403.5067, F.S., relating to the
11 determination of sufficiency for certain
12 applications; amending s. 403.507, F.S.;
13 revising required preliminary statement
14 provisions for affected agencies; requiring a
15 report as a condition precedent to the project
16 analysis and certification hearing; amending s.
17 403.508, F.S.; revising provisions relating to
18 land use and certification hearings, including
19 cancellation and responsibility for payment of
20 expenses and costs; requiring certain notice;
21 amending s. 403.509, F.S.; revising provisions
22 relating to the final disposition of certain
23 applications; providing requirements and
24 provisions with respect thereto; amending s.
25 403.511, F.S.; revising provisions relating to
26 the effect of certification for the
27 construction and operation of proposed
28 electrical power plants; providing that
29 issuance of certification meets certain coastal
30 zone consistency requirements; creating s.
31 403.5112, F.S.; requiring filing of notice for

1 certified corridor routes; providing
2 requirements and procedures with respect
3 thereto; creating s. 403.5113, F.S.;
4 authorizing postcertification amendments for
5 power plant site certification applications;
6 providing requirements and procedures with
7 respect thereto; amending s. 403.5115, F.S.;
8 requiring certain public notice for activities
9 relating to electrical power plant site
10 application, certification, and land use
11 determination; providing requirements and
12 procedures with respect thereto; directing the
13 Department of Environmental Protection to
14 maintain certain lists and provide copies of
15 certain publications; amending s. 403.513,
16 F.S.; revising provisions for judicial review
17 of appeals relating to electrical power plant
18 site certification; amending s. 403.516, F.S.;
19 revising provisions relating to modification of
20 certification for electrical power plant sites;
21 amending s. 403.517, F.S.; revising provisions
22 relating to supplemental applications for sites
23 certified for ultimate site capacity; amending
24 s. 403.5175, F.S.; revising provisions relating
25 to existing electrical power plant site
26 certification; revising the procedure for
27 reviewing and processing applications;
28 requiring additional information to be included
29 in certain applications; amending s. 403.518,
30 F.S.; revising the allocation of proceeds from
31 certain fees collected; providing for

1 reimbursement of certain expenses; directing
2 the Department of Environmental Protection to
3 establish rules for determination of certain
4 fees; eliminating certain operational license
5 fees; providing for the application,
6 processing, approval, and cancellation of
7 electrical power plant certification; amending
8 s. 403.519, F.S.; directing the Public Service
9 Commission to consider fuel diversity and
10 reliability in certain determinations;
11 providing requirements and procedures for
12 determination of need for certain power plants;
13 providing an exemption from purchased power
14 supply bid rules under certain circumstances;
15 creating s. 366.93, F.S.; providing
16 definitions; requiring the Public Service
17 Commission to implement rules related to
18 nuclear power plant cost recovery; requiring a
19 report; amending s. 403.52, F.S.; changing the
20 short title to the "Florida Electric
21 Transmission Line Siting Act"; amending s.
22 403.521, F.S.; revising legislative intent;
23 amending s. 403.522, F.S.; revising
24 definitions; defining the terms "licensee" and
25 "maintenance and access roads"; amending s.
26 403.523, F.S.; revising powers and duties of
27 the Department of Environmental Protection;
28 requiring the department to collect and process
29 fees, to prepare a project analysis, to act as
30 clerk for the siting board, and to administer
31 and manage the terms and conditions of the

1 certification order and supporting documents
2 and records; amending s. 403.524, F.S.;
3 revising provisions for applicability,
4 certification, and exemptions under the act;
5 revising provisions for notice by an electric
6 utility of its intent to construct an exempt
7 transmission line; amending s. 403.525, F.S.;
8 providing for powers and duties of the
9 administrative law judge designated by the
10 Division of Administrative Hearings to conduct
11 the required hearings; amending s. 403.5251,
12 F.S.; revising application procedures and
13 schedules; providing for the formal date of
14 filing an application for certification and
15 commencement of the certification review
16 process; requiring the department to prepare a
17 proposed schedule of dates for determination of
18 completeness and other significant dates to be
19 followed during the certification process;
20 providing for the formal date of application
21 distribution; requiring the applicant to
22 provide notice of filing the application;
23 amending s. 403.5252, F.S.; revising timeframes
24 and procedures for determination of
25 completeness of the application; requiring the
26 department to consult with affected agencies;
27 revising requirements for the department to
28 file a statement of its determination of
29 completeness with the Division of
30 Administrative Hearings, the applicant, and all
31 parties within a certain time after

1 distribution of the application; revising
2 requirements for the applicant to file a
3 statement with the department, the division,
4 and all parties, if the department determines
5 the application is not complete; providing for
6 the statement to notify the department whether
7 the information will be provided; revising
8 timeframes and procedures for contests of the
9 determination by the department; providing for
10 parties to a hearing on the issue of
11 completeness; amending s. 403.526, F.S.;
12 revising criteria and procedures for
13 preliminary statements of issues, reports, and
14 studies; revising timeframes; requiring that
15 the preliminary statement of issues from each
16 affected agency be submitted to the department
17 and the applicant; revising criteria for the
18 Department of Community Affairs' report;
19 requiring the Department of Transportation, the
20 Public Service Commission, and any other
21 affected agency to prepare a project report;
22 revising required content of the report;
23 providing for notice of any nonprocedural
24 requirements not listed in the application;
25 providing for failure to provide such
26 notification; providing for a recommendation
27 for approval or denial of the application;
28 providing that receipt of an affirmative
29 determination of need is a condition precedent
30 to further processing of the application;
31 requiring that the department prepare a project

1 analysis to be filed with the administrative
2 law judge and served on all parties within a
3 certain time; amending s. 403.527, F.S.;
4 revising procedures and timeframes for the
5 certification hearing conducted by the
6 administrative law judge; revising provisions
7 for notices and publication of notices, public
8 hearings held by local governments, testimony
9 at the public-hearing portion of the
10 certification hearing, the order of
11 presentations at the hearing, and consideration
12 of certain communications by the administrative
13 law judge; requiring the applicant to pay
14 certain expenses and costs; requiring the
15 administrative law judge to issue a recommended
16 order disposing of the application; requiring
17 that certain notices be made in accordance with
18 specified requirements and within a certain
19 time; requiring the Department of
20 Transportation to be a party to the
21 proceedings; providing for the administrative
22 law judge to cancel the certification hearing
23 and relinquish jurisdiction to the Department
24 of Environmental Protection upon request by the
25 applicant or the department; requiring the
26 department and the applicant to publish notice
27 of such cancellation; providing for parties to
28 submit proposed recommended orders to the
29 department when the certification hearing has
30 been canceled; providing that the department
31 prepare a recommended order for final action by

1 the siting board when the hearing has been
2 canceled; amending s. 403.5271, F.S.; revising
3 procedures and timeframes for consideration of
4 proposed alternate corridors; revising notice
5 requirements; providing for notice of the
6 filing of the alternate corridor and revised
7 time schedules; providing for notice to
8 agencies newly affected by the proposed
9 alternate corridor; requiring the person
10 proposing the alternate corridor to provide all
11 data to the agencies within a certain time;
12 providing for a determination by the department
13 that the data is not complete; providing for
14 withdrawal of the proposed alternate corridor
15 upon such determination; requiring that
16 agencies file reports with the applicant and
17 the department which address the proposed
18 alternate corridor; requiring that the
19 department file with the administrative law
20 judge, the applicant, and all parties a project
21 analysis of the proposed alternate corridor;
22 providing that the party proposing an alternate
23 corridor has the burden of proof concerning the
24 certifiability of the alternate corridor;
25 amending s. 403.5272, F.S.; revising procedures
26 for informational public meetings; providing
27 for informational public meetings held by
28 regional planning councils; revising
29 timeframes; amending s. 403.5275, F.S.;
30 revising provisions for amendment to the
31 application prior to certification; amending s.

1 403.528, F.S.; providing that a comprehensive
2 application encompassing more than one proposed
3 transmission line may be good cause for
4 altering established time limits; amending s.
5 403.529, F.S.; revising provisions for final
6 disposition of the application by the siting
7 board; providing for the administrative law
8 judge's or department's recommended order;
9 amending s. 403.531, F.S.; revising provisions
10 for conditions of certification; amending s.
11 403.5312, F.S.; requiring the applicant to file
12 notice of a certified corridor route with the
13 department; amending s. 403.5315, F.S.;
14 revising the circumstances under which a
15 certification may be modified after the
16 certification has been issued; providing for
17 procedures if objections are raised to the
18 proposed modification; creating s. 403.5317,
19 F.S.; providing procedures for changes proposed
20 by the licensee after certification; requiring
21 the department to determine within a certain
22 time if the proposed change requires
23 modification of the conditions of
24 certification; requiring notice to the
25 licensee, all agencies, and all parties of
26 changes that are approved as not requiring
27 modification of the conditions of
28 certification; creating s. 403.5363, F.S.;
29 requiring publication of certain notices by the
30 applicant, the proponent of an alternate
31 corridor, and the department; requiring the

1 department to adopt rules specifying the
2 content of such notices; amending s. 403.5365,
3 F.S.; revising application fees and the
4 distribution of fees collected; revising
5 procedures for reimbursement of local
6 governments and regional planning
7 organizations; amending s. 403.537, F.S.;
8 revising the schedule for notice of a public
9 hearing by the Public Service Commission in
10 order to determine the need for a transmission
11 line; providing that the commission is the sole
12 forum in which to determine the need for a
13 transmission line; amending ss. 373.441,
14 403.061, 403.0876, and 403.809, F.S.;
15 conforming terminology to changes made by the
16 act; repealing ss. 403.5253 and 403.5369, F.S.,
17 relating to determination of sufficiency of
18 application or amendment to the application and
19 the application of the act to applications
20 filed before a certain date; requiring the
21 Department of Environmental Protection to
22 provide a report to the Governor and
23 Legislature by a certain date; providing
24 requirements for such report; amending 403.885,
25 F.S.; revising provisions and requirements
26 relating to the stormwater management,
27 wastewater management, and water restoration
28 grants program; providing for appropriations;
29 providing effective dates.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Legislative findings and intent.--The
2 Legislature finds that advancing the development of renewable
3 energy technologies and energy efficiency is important for the
4 state's future, its energy stability, and the protection of
5 its citizens' public health and its environment. The
6 Legislature finds that the development of renewable energy
7 technologies and energy efficiency in the state will help to
8 reduce demand for foreign fuels, promote energy diversity,
9 enhance system reliability, reduce pollution, educate the
10 public on the promise of renewable energy technologies, and
11 promote economic growth. The Legislature finds that there is a
12 need to assist in the development of market demand that will
13 advance the commercialization and widespread application of
14 renewable energy technologies. The Legislature further finds
15 that the state is ideally positioned to stimulate economic
16 development through such renewable energy technologies due to
17 its ongoing and successful research and development track
18 record in these areas, an abundance of natural and renewable
19 energy sources, an ability to attract significant federal
20 research and development funds, and the need to find and
21 secure renewable energy technologies for the benefit of its
22 citizens, visitors, and environment.

23 Section 2. Section 377.801, Florida Statutes, is
24 created to read:

25 377.801 Short title.--Sections 377.801-377.806 may be
26 cited as the "Florida Renewable Energy Technologies and Energy
27 Efficiency Act."

28 Section 3. Section 377.802, Florida Statutes, is
29 created to read:

30 377.802 Purpose.--This act is intended to provide
31 matching grants to stimulate capital investment in the state

1 and to enhance the market for and promote the statewide
2 utilization of renewable energy technologies. The targeted
3 grants program is designed to advance the already growing
4 establishment of renewable energy technologies in the state
5 and encourage the use of other incentives such as tax
6 exemptions and regulatory certainty to attract additional
7 renewable energy technology producers, developers, and users
8 to the state. This act is also intended to provide incentives
9 for the purchase of energy-efficient appliances and rebates
10 for solar energy equipment installations for residential and
11 commercial buildings.

12 Section 4. Section 377.803, Florida Statutes, is
13 created to read:

14 377.803 Definitions.--As used in ss. 377.801-377.806,
15 the term:

16 (1) "Act" means the Florida Renewable Energy
17 Technologies and Energy Efficiency Act.

18 (2) "Approved metering equipment" means a device
19 capable of measuring the energy output of a solar thermal
20 system that has been approved by the commission.

21 (3) "Commission" means the Florida Public Service
22 Commission.

23 (4) "Department" means the Department of Environmental
24 Protection.

25 (5) "Person" means an individual, partnership, joint
26 venture, private or public corporation, association, firm,
27 public service company, or any other public or private entity.

28 (6) "Renewable energy" means electrical, mechanical,
29 or thermal energy produced from a method that uses one or more
30 of the following fuels or energy sources: hydrogen, biomass,
31

1 solar energy, geothermal energy, wind energy, ocean energy,
2 waste heat, or hydroelectric power.

3 (7) "Renewable energy technology" means any technology
4 that generates or utilizes a renewable energy resource.

5 (8) "Solar energy system" means equipment that
6 provides for the collection and use of incident solar energy
7 for water heating, space heating or cooling, or other
8 applications that would normally require a conventional source
9 of energy such as petroleum products, natural gas, or
10 electricity that performs primarily with solar energy. In
11 other systems in which solar energy is used in a supplemental
12 way, only those components that collect and transfer solar
13 energy shall be included in this definition.

14 (9) "Solar photovoltaic system" means a device that
15 converts incident sunlight into electrical current.

16 (10) "Solar thermal system" means a device that traps
17 heat from incident sunlight in order to heat water.

18 Section 5. Section 377.804, Florida Statutes, is
19 created to read:

20 377.804 Renewable Energy Technologies Grants
21 Program.--

22 (1) The Renewable Energy Technologies Grants Program
23 is established within the department to provide renewable
24 energy matching grants for demonstration, commercialization,
25 research, and development projects relating to renewable
26 energy technologies.

27 (2) Matching grants for renewable energy technology
28 demonstration, commercialization, research, and development
29 projects may be made to any of the following:

30 (a) Municipalities and county governments.
31

- 1 (b) Established for-profit companies licensed to do
- 2 business in the state.
- 3 (c) Universities and colleges in the state.
- 4 (d) Utilities located and operating within the state.
- 5 (e) Not-for-profit organizations.
- 6 (f) Other qualified persons, as determined by the
- 7 department.
- 8 (3) The department may adopt rules pursuant to ss.
- 9 120.536(1) and 120.54 to provide for application requirements,
- 10 provide for ranking of applications, and administer the
- 11 awarding of grants under this program.
- 12 (4) Factors the department shall consider in awarding
- 13 grants include, but are not limited to:
- 14 (a) The availability of matching funds or other
- 15 in-kind contributions applied to the total project from an
- 16 applicant. The department shall give greater preference to
- 17 projects that provide such matching funds or other in-kind
- 18 contributions.
- 19 (b) The degree to which the project stimulates
- 20 in-state capital investment and economic development in
- 21 metropolitan and rural areas, including the creation of jobs
- 22 and the future development of a commercial market for
- 23 renewable energy technologies.
- 24 (c) The extent to which the proposed project has been
- 25 demonstrated to be technically feasible based on pilot project
- 26 demonstrations, laboratory testing, scientific modeling, or
- 27 engineering or chemical theory that supports the proposal.
- 28 (d) The degree to which the project incorporates an
- 29 innovative new technology or an innovative application of an
- 30 existing technology.
- 31

1 (e) The degree to which a project generates thermal,
2 mechanical, or electrical energy by means of a renewable
3 energy resource that has substantial long-term production
4 potential.

5 (f) The degree to which a project demonstrates
6 efficient use of energy and material resources.

7 (g) The degree to which the project fosters overall
8 understanding and appreciation of renewable energy
9 technologies.

10 (h) The ability to administer a complete project.

11 (i) Project duration and timeline for expenditures.

12 (j) The geographic area in which the project is to be
13 conducted in relation to other projects.

14 (k) The degree of public visibility and interaction.

15 (5) The department shall solicit the expertise of
16 other state agencies in evaluating project proposals. State
17 agencies shall cooperate with the Department of Environmental
18 Protection and provide such assistance as requested.

19 (6) The department shall coordinate and actively
20 consult with the Department of Agriculture and Consumer
21 Services during the review and approval process of grants
22 relating to bioenergy projects for renewable energy
23 technology, and the departments shall jointly determine the
24 grant awards to these bioenergy projects. No grant funding
25 shall be awarded to any bioenergy project without such joint
26 approval. Factors for consideration in awarding grants may
27 include, but are not limited to, the degree to which:

28 (a) The project stimulates in-state capital investment
29 and economic development in metropolitan and rural areas,
30 including the creation of jobs and the future development of a
31 commercial market for bioenergy.

1 (b) The project produces bioenergy from Florida-grown
2 crops or biomass.

3 (c) The project demonstrates efficient use of energy
4 and material resources.

5 (d) The project fosters overall understanding and
6 appreciation of bioenergy technologies.

7 (e) Matching funds and in-kind contributions from an
8 applicant are available.

9 (f) The project duration and the timeline for
10 expenditures are acceptable.

11 (g) The project has a reasonable assurance of
12 enhancing the value of agricultural products or will expand
13 agribusiness in the state.

14 (h) Preliminary market and feasibility research has
15 been conducted by the applicant or others and shows there is a
16 reasonable assurance of a potential market.

17 Section 6. The period from 12:01 a.m., October 5,
18 through midnight, October 11, 2006, shall be designated
19 "Energy Efficient Week," and the tax levied under chapter 212
20 may not be collected on the sale of a new energy-efficient
21 product having a selling price of \$1,500 or less per product
22 during that period. This exemption applies only when the
23 energy-efficient product is purchased for noncommercial home
24 or personal use and does not apply when the product is
25 purchased for trade, business, or resale. As used in this
26 section, the term "energy-efficient product" means a
27 dishwasher, clothes washer, air conditioner, ceiling fan,
28 incandescent or florescent light bulb, dehumidifier,
29 programmable thermostat, or refrigerator that has been
30 designated by the United States Environmental Protection
31 Agency or by the United States Department of Energy as meeting

1 or exceeding the requirements under the Energy Star Program of
 2 either agency. Purchases made under this section may not be
 3 made using a business or company credit or debit card or
 4 check. Any construction company, building contractor, or
 5 commercial business or entity that purchases or attempts to
 6 purchase the energy-efficient products as exempt under this
 7 section commits an unfair method of competition in violation
 8 of s. 501.204, punishable as provided in s. 501.2075. The
 9 Department of Revenue may adopt rules under ss. 120.536(1) and
 10 120.54 to administer this section.

11 Section 7. Section 377.806, Florida Statutes, is
 12 created to read:

13 377.806 Solar Energy System Incentives Program.--

14 (1) PURPOSE.--The Solar Energy System Incentives
 15 Program is established within the department to provide
 16 financial incentives for the purchase and installation of
 17 solar energy systems. Any resident of the state who purchases
 18 and installs a new solar energy system of 2 kilowatts or
 19 larger for a solar photovoltaic system, a solar energy system
 20 that provides at least 50 percent of a building's hot water
 21 consumption for a solar thermal system, or a solar thermal
 22 pool heater, from July 1, 2006, through June 30, 2010, is
 23 eligible for a rebate on a portion of the purchase price of
 24 that solar energy system.

25 (2) SOLAR PHOTOVOLTAIC SYSTEM INCENTIVE.--

26 (a) Eligibility requirements.--A solar photovoltaic
 27 system qualifies for a rebate if:

28 1. The system is installed by a state-licensed master
 29 electrician, electrical contractor, or solar contractor.

30 2. The system complies with state interconnection
 31 standards as provided by the commission.

1 3. The system complies with all applicable building
2 codes as defined by the local jurisdictional authority.

3 (b) Rebate amounts.--The rebate amount shall be set at
4 \$4 per watt based on the total wattage rating of the system.
5 The maximum allowable rebate per solar photovoltaic system
6 installation shall be as follows:

7 1. Twenty thousand dollars for a residence.
8 2. One hundred thousand dollars for a place of
9 business, a publicly owned or operated facility, or a facility
10 owned or operated by a private, not-for-profit organization,
11 including condominiums or apartment buildings.

12 (3) SOLAR THERMAL SYSTEM INCENTIVE.--

13 (a) Eligibility requirements.--A solar thermal system
14 qualifies for a rebate if:

15 1. The system is installed by a state-licensed solar
16 or plumbing contractor.

17 2. The system complies with all applicable building
18 codes as defined by the local jurisdictional authority.

19 (b) Rebate amounts.--Authorized rebates for
20 installation of solar thermal systems shall be as follows:

21 1. Five hundred dollars for a residence.
22 2. Fifteen dollars per 1,000 Btu up to a maximum of
23 \$5,000 for a place of business, a publicly owned or operated
24 facility, or a facility owned or operated by a private,
25 not-for-profit organization, including condominiums or
26 apartment buildings. Btu must be verified by approved metering
27 equipment.

28 (4) SOLAR THERMAL POOL HEATER INCENTIVE.--

29 (a) Eligibility requirements.--A solar thermal pool
30 heater qualifies for a rebate if the system is installed by a
31 state-licensed solar or plumbing contractor and the system

1 complies with all applicable building codes as defined by the
2 local jurisdictional authority.

3 (b) Rebate amount.--Authorized rebates for
4 installation of solar thermal pool heaters shall be \$100 per
5 installation.

6 (5) APPLICATION.--Application for a rebate must be
7 made within 90 days after the purchase of the solar energy
8 equipment.

9 (6) REBATE AVAILABILITY.--The department shall
10 determine and publish on a regular basis the amount of rebate
11 funds remaining in each fiscal year. The total dollar amount
12 of all rebates issued by the department is subject to the
13 total amount of appropriations in any fiscal year for this
14 program. If funds are insufficient during the current fiscal
15 year, any requests for rebates received during that fiscal
16 year may be processed during the following fiscal year.
17 Requests for rebates received in a fiscal year that are
18 processed during the following fiscal year shall be given
19 priority over requests for rebates received during the
20 following fiscal year.

21 (7) RULES.--The department shall adopt rules pursuant
22 to ss. 120.536(1) and 120.54 to develop rebate applications
23 and administer the issuance of rebates.

24 Section 8. Florida Energy Commission.--

25 (1) The Florida Energy Commission is created and shall
26 be located within the Office of Legislative Services for
27 administrative purposes. The commission shall be comprised of
28 a total of nine members.

29 (a) The members shall be appointed as follows: the
30 President of the Senate and the Speaker of the House of
31 Representatives shall appoint four members each and shall

1 jointly appoint the ninth member, who shall serve as chair.
2 Members shall be appointed to 2-year terms; however, in order
3 to establish staggered terms, for the initial appointments,
4 each appointing official shall appoint two members to a 1-year
5 term and two members to a 2-year term. Members must meet the
6 following qualifications and restrictions:

7 1. A member must be an expert in one or more of the
8 following fields: energy, natural resource conservation,
9 economics, engineering, finance, law, consumer protection,
10 state energy policy, or another field substantially related to
11 the duties and functions of the commission. The commission
12 shall fairly represent the fields specified in this
13 subparagraph.

14 2. Each member shall, at the time of appointment and
15 at each commission meeting during his or her term of office,
16 disclose:

17 a. Whether he or she has any financial interest, other
18 than ownership of shares in a mutual fund, in any business
19 entity that, directly or indirectly, owns or controls, or is
20 an affiliate or subsidiary of, any business entity that may
21 profit by the policy recommendations developed by the
22 commission.

23 b. Whether he or she is employed by or is engaged in
24 any business activity with any business entity that, directly
25 or indirectly, owns or controls, or is an affiliate or
26 subsidiary of, any business entity that may profit by the
27 policy recommendations developed by the commission.

28 (b) The following may also attend meetings and provide
29 information and advise at the request of the chair:

30 1. The chair of the Florida Public Service Commission,
31 or his or her designee.

- 1 2. The Public Counsel, or his or her designee.
2 3. The Commissioner of Agriculture, or his or her
3 designee.
4 4. The Director of the Office of Insurance Regulation,
5 or his or her designee.
6 5. The Secretary of Health, or his or her designee.
7 6. The chair of the State Board of Education, or his
8 or her designee.
9 7. The Secretary of Community Affairs, or his or her
10 designee.
11 8. The Secretary of Transportation, or his or her
12 designee.
13 9. The Secretary of Environmental Protection, or his
14 or her designee.
15 (2) Members shall serve without compensation but are
16 entitled to reimbursement for per diem and travel expenses as
17 provided in s. 112.061, Florida Statutes.
18 (3) Meetings of the commission shall be held in
19 various locations around the state and at the call of the
20 chair; however, the commission must meet at least twice each
21 year.
22 (4)(a) The commission may employ staff to assist in
23 the performance of its duties, including an executive
24 director, an attorney, a communications staff member, and an
25 executive assistant.
26 (b) The commission may form advisory groups consisting
27 of members of the public to provide information on specific
28 issues.
29 (5) The commission shall develop recommendations for
30 legislation to establish a state energy policy. The
31 recommendations of the commission shall be based on the

1 guiding principles of reliability, efficiency, affordability,
2 and diversity as provided in subsection (7). The commission
3 shall continually review the state energy policy and shall
4 recommend to the Legislature any additional necessary changes
5 or improvements.

6 (6)(a) The commission shall report by December 31 of
7 each year to the President of the Senate and the Speaker of
8 the House of Representatives on its progress and
9 recommendations, including draft legislation.

10 (b) The commission's initial report must be filed by
11 December 31, 2007, and must identify incentives for research,
12 development, or deployment projects involving the goals and
13 issues set forth in this section; set forth policy
14 recommendations for conservation of all forms of energy; and
15 set forth a plan of action, together with a timetable, for
16 addressing additional issues.

17 (c) The commission's initial report shall also
18 recommend consensus-based public-involvement processes that
19 evaluate greenhouse gas emissions in this state and make
20 recommendations regarding related economic, energy, and
21 environmental benefits.

22 (d) The report must include recommended steps and a
23 schedule for the development of a comprehensive state climate
24 action plan with greenhouse gas reduction through a
25 public-involvement process, including transportation and land
26 use; power generation; residential, commercial, and industrial
27 activities; waste management; agriculture and forestry;
28 emissions-reporting systems; and public education.

29 (7) In developing its recommendations, the commission
30 shall be guided by the principles of reliability, efficiency,
31

- 1 affordability, and diversity, and more specifically as
2 follows:
- 3 (a) The state should have a reliable electric supply
4 with adequate reserves.
- 5 (b) The transmission and delivery of electricity
6 should be reliable.
- 7 (c) The generation, transmission, and delivery of
8 electricity should be accomplished with the least detriment to
9 the environment and public health.
- 10 (d) The generation, transmission, and delivery of
11 electricity should be accomplished compatibly with the goals
12 for growth management.
- 13 (e) Electricity generation, transmission, and delivery
14 facilities should be reasonably secure from damage, taking all
15 factors into consideration, and recovery from damage should be
16 prompt.
- 17 (f) Electric rates should be affordable, as to base
18 rates and all recovery-clause additions, with sufficient
19 incentives for utilities to achieve this goal.
- 20 (g) The state should have a reliable supply of motor
21 vehicle fuels, both under normal circumstances and during
22 hurricanes and other emergency situations.
- 23 (h) In-state research, development, and deployment of
24 alternative energy technologies and alternative motor vehicle
25 fuels should be encouraged.
- 26 (i) When possible, the resources of the state should
27 be used in achieving the goals enumerated in this subsection.
- 28 (j) Consumers of energy should be encouraged and given
29 incentives to be more efficient in their use of energy.
30
31

1 It is the specific intent of the Legislature that nothing in
2 this section shall in any way change the powers, duties, and
3 responsibilities of the Public Service Commission or the
4 powers, duties, and responsibilities assigned by the Florida
5 Electrical Power Plant Siting Act, ss. 403.501-403.518,
6 Florida Statutes.

7 Section 9. Paragraph (ccc) is added to subsection (7)
8 of section 212.08, Florida Statutes, to read:

9 212.08 Sales, rental, use, consumption, distribution,
10 and storage tax; specified exemptions.--The sale at retail,
11 the rental, the use, the consumption, the distribution, and
12 the storage to be used or consumed in this state of the
13 following are hereby specifically exempt from the tax imposed
14 by this chapter.

15 (7) MISCELLANEOUS EXEMPTIONS.--Exemptions provided to
16 any entity by this chapter do not inure to any transaction
17 that is otherwise taxable under this chapter when payment is
18 made by a representative or employee of the entity by any
19 means, including, but not limited to, cash, check, or credit
20 card, even when that representative or employee is
21 subsequently reimbursed by the entity. In addition, exemptions
22 provided to any entity by this subsection do not inure to any
23 transaction that is otherwise taxable under this chapter
24 unless the entity has obtained a sales tax exemption
25 certificate from the department or the entity obtains or
26 provides other documentation as required by the department.
27 Eligible purchases or leases made with such a certificate must
28 be in strict compliance with this subsection and departmental
29 rules, and any person who makes an exempt purchase with a
30 certificate that is not in strict compliance with this
31

1 subsection and the rules is liable for and shall pay the tax.

2 The department may adopt rules to administer this subsection.

3 (ccc) Equipment, machinery, and other materials for
4 renewable energy technologies.--

5 1. As used in this paragraph, the term:

6 a. "Biodiesel" means the mono-alkyl esters of
7 long-chain fatty acids derived from plant or animal matter for
8 use as a source of energy and meeting the specifications for
9 biodiesel and biodiesel blends with petroleum products as
10 adopted by the Department of Agriculture and Consumer
11 Services. Biodiesel may refer to biodiesel blends designated
12 BXX, where XX represents the volume percentage of biodiesel
13 fuel in the blend.

14 b. "Ethanol" means nominally anhydrous denatured
15 alcohol produced by the fermentation of plant sugars meeting
16 the specifications for fuel ethanol and fuel ethanol blends
17 with petroleum products as adopted by the Department of
18 Agriculture and Consumer Services. Ethanol may refer to fuel
19 ethanol blends designated EXX, where XX represents the volume
20 percentage of fuel ethanol in the blend.

21 c. "Hydrogen fuel cells" means equipment using
22 hydrogen or a hydrogen-rich fuel in an electrochemical process
23 to generate energy, electricity, or the transfer of heat.

24 2. The sale or use of the following in the state is
25 exempt from the tax imposed by this chapter:

26 a. Hydrogen-powered vehicles, materials incorporated
27 into hydrogen-powered vehicles, and hydrogen-fueling stations,
28 up to a limit of \$2 million in tax each state fiscal year for
29 all taxpayers.

30
31

1 b. Commercial stationary hydrogen fuel cells, up to a
2 limit of \$1 million in tax each state fiscal year for all
3 taxpayers.

4 c. Materials used in the distribution of biodiesel
5 (B10-B100) and ethanol (E10-100), including fueling
6 infrastructure, transportation, and storage, up to a limit of
7 \$1 million in tax each state fiscal year for all taxpayers.
8 Gasoline fueling station pump retrofits for ethanol (E10-E100)
9 distribution qualify for the exemption provided in this
10 sub-subparagraph.

11 3. The Department of Environmental Protection shall
12 provide to the department a list of items eligible for the
13 exemption provided in this paragraph.

14 4.a. The exemption provided in this paragraph shall be
15 available to a purchaser only through a refund of previously
16 paid taxes.

17 b. To be eligible to receive the exemption provided in
18 this paragraph, a purchaser shall file an application with the
19 Department of Environmental Protection. The application shall
20 be developed by the Department of Environmental Protection, in
21 consultation with the department, and shall require:

22 (I) The name and address of the person claiming the
23 refund.

24 (II) A specific description of the purchase for which
25 a refund is sought, including, when applicable, a serial
26 number or other permanent identification number.

27 (III) The sales invoice or other proof of purchase
28 showing the amount of sales tax paid, the date of purchase,
29 and the name and address of the sales tax dealer from whom the
30 property was purchased.

31

1 (IV) A sworn statement that the information provided
2 is accurate and that the requirements of this paragraph have
3 been met.

4 c. Within 30 days after receipt of an application, the
5 Department of Environmental Protection shall review the
6 application and shall notify the applicant of any
7 deficiencies. Upon receipt of a completed application, the
8 Department of Environmental Protection shall evaluate the
9 application for exemption and issue a written certification
10 that the applicant is eligible for a refund or issue a written
11 denial of such certification within 60 days after receipt of
12 the application. The Department of Environmental Protection
13 shall provide the department with a copy of each certification
14 issued upon approval of an application.

15 d. Each certified applicant shall be responsible for
16 forwarding a certified copy of the application and copies of
17 all required documentation to the department within 6 months
18 after certification by the Department of Environmental
19 Protection.

20 e. The provisions of s. 212.095 do not apply to any
21 refund application made pursuant to this paragraph. A refund
22 approved pursuant to this paragraph shall be made within 30
23 days after formal approval by the department.

24 f. The department may adopt all rules pursuant to ss.
25 120.536(1) and 120.54 to administer this paragraph, including
26 rules establishing forms and procedures for claiming this
27 exemption.

28 g. The Department of Environmental Protection shall be
29 responsible for ensuring that the total amounts of the
30 exemptions authorized do not exceed the limits as specified in
31 subparagraph 2.

1 5. The Department of Environmental Protection shall
2 determine and publish on a regular basis the amount of sales
3 tax funds remaining in each fiscal year.

4 6. This paragraph expires July 1, 2010.

5 Section 10. Paragraph (y) is added to subsection (7)
6 of section 213.053, Florida Statutes, to read:

7 213.053 Confidentiality and information sharing.--

8 (7) Notwithstanding any other provision of this
9 section, the department may provide:

10 (y) Information relative to ss. 212.08(7)(ccc) and
11 220.192 to the Department of Environmental Protection for use
12 in the conduct of its official business.

13
14 Disclosure of information under this subsection shall be
15 pursuant to a written agreement between the executive director
16 and the agency. Such agencies, governmental or
17 nongovernmental, shall be bound by the same requirements of
18 confidentiality as the Department of Revenue. Breach of
19 confidentiality is a misdemeanor of the first degree,
20 punishable as provided by s. 775.082 or s. 775.083.

21 Section 11. Subsection (8) of section 220.02, Florida
22 Statutes, is amended to read:

23 220.02 Legislative intent.--

24 (8) It is the intent of the Legislature that credits
25 against either the corporate income tax or the franchise tax
26 be applied in the following order: those enumerated in s.
27 631.828, those enumerated in s. 220.191, those enumerated in
28 s. 220.181, those enumerated in s. 220.183, those enumerated
29 in s. 220.182, those enumerated in s. 220.1895, those
30 enumerated in s. 221.02, those enumerated in s. 220.184, those
31 enumerated in s. 220.186, those enumerated in s. 220.1845,

1 those enumerated in s. 220.19, those enumerated in s. 220.185,
2 ~~and~~ those enumerated in s. 220.187, those enumerated in s.
3 220.192, and those enumerated in s. 220.193.

4 Section 12. Section 220.192, Florida Statutes, is
5 created to read:

6 220.192 Renewable energy technologies investment tax
7 credit.--

8 (1) DEFINITIONS.--For purposes of this section, the
9 term:

10 (a) "Biodiesel" means biodiesel as defined in s.
11 212.08(7)(ccc).

12 (b) "Eligible costs" means:

13 1. Seventy-five percent of all capital costs,
14 operation and maintenance costs, and research and development
15 costs incurred between July 1, 2006, and June 30, 2010, up to
16 a limit of \$3 million per state fiscal year for all taxpayers,
17 in connection with an investment in hydrogen-powered vehicles
18 and hydrogen vehicle fueling stations in the state, including,
19 but not limited to, the costs of constructing, installing, and
20 equipping such technologies in the state.

21 2. Seventy-five percent of all capital costs,
22 operation and maintenance costs, and research and development
23 costs incurred between July 1, 2006, and June 30, 2010, up to
24 a limit of \$1.5 million per state fiscal year for all
25 taxpayers, and limited to a maximum of \$12,000 per fuel cell,
26 in connection with an investment in commercial stationary
27 hydrogen fuel cells in the state, including, but not limited
28 to, the costs of constructing, installing, and equipping such
29 technologies in the state.

30 3. Seventy-five percent of all capital costs,
31 operation and maintenance costs, and research and development

1 costs incurred between July 1, 2006, and June 30, 2010, up to
2 a limit of \$6.5 million per state fiscal year for all
3 taxpayers, in connection with an investment in the production,
4 storage, and distribution of biodiesel (B10-B100) and ethanol
5 (E10-E100) in the state, including the costs of constructing,
6 installing, and equipping such technologies in the state.
7 Gasoline fueling station pump retrofits for ethanol (E10-E100)
8 distribution qualify as an eligible cost under this
9 subparagraph.

10 (c) "Ethanol" means ethanol as defined in s.
11 212.08(7)(ccc).

12 (d) "Hydrogen fuel cell" means hydrogen fuel cell as
13 defined in s. 212.08(7)(ccc).

14 (2) TAX CREDIT.--For tax years beginning on or after
15 January 1, 2007, a credit against the tax imposed by this
16 chapter shall be granted in an amount equal to the eligible
17 costs. Credits may be used in tax years beginning January 1,
18 2007, and ending December 31, 2010, after which the credit
19 shall expire. If the credit is not fully used in any one tax
20 year because of insufficient tax liability on the part of the
21 corporation, the unused amount may be carried forward and used
22 in tax years beginning January 1, 2007, and ending December
23 31, 2012, after which the credit carryover expires and may not
24 be used. A taxpayer that files a consolidated return in this
25 state as a member of an affiliated group under s. 220.131(1)
26 may be allowed the credit on a consolidated return basis up to
27 the amount of tax imposed upon the consolidated group. Any
28 eligible cost for which a credit is claimed and which is
29 deducted or otherwise reduces federal taxable income shall be
30 added back in computing adjusted federal income under s.
31 220.13.

1 (3) CORPORATE APPLICATION PROCESS.--Any corporation
2 wishing to obtain tax credits available under this section
3 must submit to the Department of Environmental Protection an
4 application for tax credit that includes a complete
5 description of all eligible costs for which the corporation is
6 seeking a credit and a description of the total amount of
7 credits sought. The Department of Environmental Protection
8 shall make a determination on the eligibility of the applicant
9 for the credits sought and certify the determination to the
10 applicant and the Department of Revenue. The corporation must
11 attach the Department of Environmental Protection's
12 certification to the tax return on which the credit is
13 claimed. The Department of Environmental Protection shall be
14 responsible for ensuring that the corporate income tax credits
15 granted in each fiscal year do not exceed the limits provided
16 for in this section. The Department of Environmental
17 Protection is authorized to adopt the necessary rules,
18 guidelines, and application materials for the application
19 process.

20 (4) TAXPAYER APPLICATION PROCESS.--To claim a credit
21 under this section, each taxpayer must apply to the Department
22 of Environmental Protection for an allocation of each type of
23 annual credit by the date established by the Department of
24 Environmental Protection. The application form may be
25 established by the Department of Environmental Protection and
26 shall include an affidavit from each taxpayer certifying that
27 all information contained in the application, including all
28 records of eligible costs claimed as the basis for the tax
29 credit, are true and correct. Approval of the credits under
30 this section shall be accomplished on a first-come,
31 first-served basis, based upon the date complete applications

1 are received by the Department of Environmental Protection. A
2 taxpayer shall submit only one complete application based upon
3 eligible costs incurred within a particular state fiscal year.
4 Incomplete placeholder applications will not be accepted and
5 will not secure a place in the first-come, first-served
6 application line. If a taxpayer does not receive a tax credit
7 allocation due to the exhaustion of the annual tax credit
8 authorizations, then such taxpayer may reapply in the
9 following year for those eligible costs and will have priority
10 over other applicants for the allocation of credits.

11 (5) ADMINISTRATION; AUDIT AUTHORITY; RECAPTURE OF
12 CREDITS.--

13 (a) In addition to its existing audit and
14 investigation authority, the Department of Revenue may perform
15 any additional financial and technical audits and
16 investigations, including examining the accounts, books, and
17 records of the tax credit applicant, that are necessary to
18 verify the eligible costs included in the tax credit return
19 and to ensure compliance with this section. The Department of
20 Environmental Protection shall provide technical assistance
21 when requested by the Department of Revenue on any technical
22 audits or examinations performed pursuant to this section.

23 (b) It is grounds for forfeiture of previously claimed
24 and received tax credits if the Department of Revenue
25 determines, as a result of either an audit or examination or
26 from information received from the Department of Environmental
27 Protection, that a taxpayer received tax credits pursuant to
28 this section to which the taxpayer was not entitled. The
29 taxpayer is responsible for returning forfeited tax credits to
30 the Department of Revenue, and such funds shall be paid into
31 the General Revenue Fund of the state.

1 (c) The Department of Environmental Protection may
2 revoke or modify any written decision granting eligibility for
3 tax credits under this section if it is discovered that the
4 tax credit applicant submitted any false statement,
5 representation, or certification in any application, record,
6 report, plan, or other document filed in an attempt to receive
7 tax credits under this section. The Department of
8 Environmental Protection shall immediately notify the
9 Department of Revenue of any revoked or modified orders
10 affecting previously granted tax credits. Additionally, the
11 taxpayer must notify the Department of Revenue of any change
12 in its tax credit claimed.

13 (d) The taxpayer shall file with the Department of
14 Revenue an amended return or such other report as the
15 Department of Revenue prescribes by rule and shall pay any
16 required tax and interest within 60 days after the taxpayer
17 receives notification from the Department of Environmental
18 Protection that previously approved tax credits have been
19 revoked or modified. If the revocation or modification order
20 is contested, the taxpayer shall file an amended return or
21 other report as provided in this paragraph within 60 days
22 after a final order is issued following proceedings.

23 (e) A notice of deficiency may be issued by the
24 Department of Revenue at any time within 3 years after the
25 taxpayer receives formal notification from the Department of
26 Environmental Protection that previously approved tax credits
27 have been revoked or modified. If a taxpayer fails to notify
28 the Department of Revenue of any changes to its tax credit
29 claimed, a notice of deficiency may be issued at any time.

30 (6) RULES.--The Department of Revenue shall have the
31 authority to adopt rules relating to the forms required to

1 claim a tax credit under this section, the requirements and
2 basis for establishing an entitlement to a credit, and the
3 examination and audit procedures required to administer this
4 section.

5 (7) PUBLICATION.--The Department of Environmental
6 Protection shall determine and publish on a regular basis the
7 amount of available tax credits remaining in each fiscal year.

8 Section 13. Section 220.193, Florida Statutes, is
9 created to read:

10 220.193 Florida renewable energy production credit.--

11 (1) The purpose of this section is to encourage the
12 development and expansion of facilities that produce renewable
13 energy in Florida.

14 (2) As used in this section, the term:

15 (a) "Commission" shall mean the Public Service
16 Commission.

17 (b) "Department" shall mean the Department of Revenue.

18 (c) "Expanded facility" shall mean a Florida renewable
19 energy facility that increases its electrical production and
20 sale by more than 5 percent above the facility's electrical
21 production and sale during the 2005 calendar year.

22 (d) "Florida renewable energy facility" shall mean a
23 facility in the state that produces electricity for sale from
24 renewable energy, as defined in s. 377.803.

25 (e) "New facility" shall mean a Florida renewable
26 energy facility that is operationally placed in service after
27 May 1, 2006.

28 (3) An annual credit against the tax imposed by this
29 section shall be allowed to a taxpayer, based on the
30 taxpayer's production and sale of electricity from a new or
31 expanded Florida renewable energy facility. For a new

1 facility, the credit shall be based on the taxpayer's sale of
2 the facility's entire electrical production. For an expanded
3 facility, the credit shall be based on the increases in the
4 facility's electrical production that are achieved after May
5 1, 2006.

6 (a) The credit shall be \$0.01 for each kilowatt-hour
7 of electricity produced and sold by the taxpayer to an
8 unrelated party during a given tax year.

9 (b) The credit may be claimed for electricity produced
10 and sold on or after January 1, 2007. Beginning in 2008 and
11 continuing until 2011, each taxpayer claiming a credit under
12 this section must first apply to the department by February 1
13 of each year for an allocation of available credit. The
14 department, in consultation with the commission, shall develop
15 an application form. The application form shall, at a minimum,
16 require a sworn affidavit from each taxpayer certifying the
17 increase in production and sales that form the basis of the
18 application and certifying that all information contained in
19 the application is true and correct.

20 (c) If the amount of credits applied for each year
21 exceeds \$5 million, the department shall award to each
22 applicant a prorated amount based on each applicant's
23 increased production and sales and the increased production
24 and sales of all applicants.

25 (d) If the credit granted pursuant to this section is
26 not fully used in one year because of insufficient tax
27 liability on the part of the taxpayer, the unused amount may
28 be carried forward for a period not to exceed 5 years. The
29 carryover credit may be used in a subsequent year when the tax
30 imposed by this chapter for such year exceeds the credit for
31

1 such year, after applying the other credits and unused credit
2 carryovers in the order provided in s. 220.02(8).

3 (e) A taxpayer that files a consolidated return in
4 this state as a member of an affiliated group under s.
5 220.131(1) may be allowed the credit on a consolidated return
6 basis up to the amount of tax imposed upon the consolidated
7 group.

8 (f)1. Tax credits that may be available under this
9 section to an entity eligible under this section may be
10 transferred after a merger or acquisition to the surviving or
11 acquiring entity and used in the same manner with the same
12 limitations.

13 2. The entity or its surviving or acquiring entity as
14 described in subparagraph 1. may transfer any unused credit in
15 whole or in units of no less than 25 percent of the remaining
16 credit. The entity acquiring such credit may use it in the
17 same manner and with the same limitations under this section.
18 Such transferred credits may not be transferred again although
19 they may succeed to a surviving or acquiring entity subject to
20 the same conditions and limitations as described in this
21 section.

22 3. In the event the credit provided for under this
23 section is reduced as a result of an examination or audit by
24 the department, such tax deficiency shall be recovered from
25 the first entity or the surviving or acquiring entity to have
26 claimed such credit up to the amount of credit taken. Any
27 subsequent deficiencies shall be assessed against any entity
28 acquiring and claiming such credit, or in the case of multiple
29 succeeding entities in the order of credit succession.

30 (g) Notwithstanding any other provision of this
31 section, credits for the production and sale of electricity

1 from a new or expanded Florida renewable energy facility may
2 be earned between January 1, 2007 and June 30, 2010. The
3 combined total amount of tax credits which may be granted for
4 all taxpayers under this section is limited to \$5 million per
5 state fiscal year.

6 (h) A taxpayer claiming a credit under this section
7 shall be required to add back to net income that portion of
8 its business deductions claimed on its federal return paid or
9 incurred for the taxable year which is equal to the amount of
10 the credit allowable for the taxable year under this section.

11 (i) A taxpayer claiming credit under this section may
12 not claim a credit under s. 220.192. A taxpayer claiming
13 credit under s. 220.192 may not claim a credit under this
14 section.

15 (4) The department may adopt rules to implement and
16 administer this section, including rules prescribing forms,
17 the documentation needed to substantiate a claim for the tax
18 credit, and the specific procedures and guidelines for
19 claiming the credit.

20 (5) This section shall take effect upon becoming law
21 and shall apply to tax years beginning on and after January 1,
22 2007.

23 Section 14. Paragraph (a) of subsection (1) of section
24 220.13, Florida Statutes, is amended to read:

25 220.13 "Adjusted federal income" defined.--

26 (1) The term "adjusted federal income" means an amount
27 equal to the taxpayer's taxable income as defined in
28 subsection (2), or such taxable income of more than one
29 taxpayer as provided in s. 220.131, for the taxable year,
30 adjusted as follows:
31

1 (a) Additions.--There shall be added to such taxable
2 income:

3 1. The amount of any tax upon or measured by income,
4 excluding taxes based on gross receipts or revenues, paid or
5 accrued as a liability to the District of Columbia or any
6 state of the United States which is deductible from gross
7 income in the computation of taxable income for the taxable
8 year.

9 2. The amount of interest which is excluded from
10 taxable income under s. 103(a) of the Internal Revenue Code or
11 any other federal law, less the associated expenses disallowed
12 in the computation of taxable income under s. 265 of the
13 Internal Revenue Code or any other law, excluding 60 percent
14 of any amounts included in alternative minimum taxable income,
15 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
16 taxpayer pays tax under s. 220.11(3).

17 3. In the case of a regulated investment company or
18 real estate investment trust, an amount equal to the excess of
19 the net long-term capital gain for the taxable year over the
20 amount of the capital gain dividends attributable to the
21 taxable year.

22 4. That portion of the wages or salaries paid or
23 incurred for the taxable year which is equal to the amount of
24 the credit allowable for the taxable year under s. 220.181.
25 The provisions of this subparagraph shall expire and be void
26 on June 30, 2005.

27 5. That portion of the ad valorem school taxes paid or
28 incurred for the taxable year which is equal to the amount of
29 the credit allowable for the taxable year under s. 220.182.
30 The provisions of this subparagraph shall expire and be void
31 on June 30, 2005.

1 6. The amount of emergency excise tax paid or accrued
2 as a liability to this state under chapter 221 which tax is
3 deductible from gross income in the computation of taxable
4 income for the taxable year.

5 7. That portion of assessments to fund a guaranty
6 association incurred for the taxable year which is equal to
7 the amount of the credit allowable for the taxable year.

8 8. In the case of a nonprofit corporation which holds
9 a pari-mutuel permit and which is exempt from federal income
10 tax as a farmers' cooperative, an amount equal to the excess
11 of the gross income attributable to the pari-mutuel operations
12 over the attributable expenses for the taxable year.

13 9. The amount taken as a credit for the taxable year
14 under s. 220.1895.

15 10. Up to nine percent of the eligible basis of any
16 designated project which is equal to the credit allowable for
17 the taxable year under s. 220.185.

18 11. The amount taken as a credit for the taxable year
19 under s. 220.187.

20 12. The amount taken as a credit for the taxable year
21 under s. 220.192.

22 13. The amount taken as a credit for the taxable year
23 under s. 220.193.

24 Section 15. Subsection (2) of section 186.801, Florida
25 Statutes, is amended to read:

26 186.801 Ten-year site plans.--

27 (2) Within 9 months after the receipt of the proposed
28 plan, the commission shall make a preliminary study of such
29 plan and classify it as "suitable" or "unsuitable." The
30 commission may suggest alternatives to the plan. All findings
31 of the commission shall be made available to the Department of

1 Environmental Protection for its consideration at any
2 subsequent electrical power plant site certification
3 proceedings. It is recognized that 10-year site plans
4 submitted by an electric utility are tentative information for
5 planning purposes only and may be amended at any time at the
6 discretion of the utility upon written notification to the
7 commission. A complete application for certification of an
8 electrical power plant site under chapter 403, when such site
9 is not designated in the current 10-year site plan of the
10 applicant, shall constitute an amendment to the 10-year site
11 plan. In its preliminary study of each 10-year site plan, the
12 commission shall consider such plan as a planning document and
13 shall review:

14 (a) The need, including the need as determined by the
15 commission, for electrical power in the area to be served.

16 (b) The effect on fuel diversity within the state.

17 ~~(c)(b)~~ The anticipated environmental impact of each
18 proposed electrical power plant site.

19 ~~(d)(e)~~ Possible alternatives to the proposed plan.

20 ~~(e)(d)~~ The views of appropriate local, state, and
21 federal agencies, including the views of the appropriate water
22 management district as to the availability of water and its
23 recommendation as to the use by the proposed plant of salt
24 water or fresh water for cooling purposes.

25 ~~(f)(e)~~ The extent to which the plan is consistent with
26 the state comprehensive plan.

27 ~~(g)(f)~~ The plan with respect to the information of the
28 state on energy availability and consumption.

29 Section 16. Subsection (6) of section 366.04, Florida
30 Statutes, is amended to read:

31 366.04 Jurisdiction of commission.--

1 (6) The commission shall further have exclusive
2 jurisdiction to prescribe and enforce safety standards for
3 transmission and distribution facilities of all public
4 electric utilities, cooperatives organized under the Rural
5 Electric Cooperative Law, and electric utilities owned and
6 operated by municipalities. In adopting safety standards, the
7 commission shall, at a minimum:

8 (a) Adopt the 1984 edition of the National Electrical
9 Safety Code (ANSI C2) as initial standards; and

10 (b) Adopt, after review, any new edition of the
11 National Electrical Safety Code (ANSI C2).

12
13 The standards prescribed by the current 1984 edition of the
14 National Electrical Safety Code (ANSI C2) shall constitute
15 acceptable and adequate requirements for the protection of the
16 safety of the public, and compliance with the minimum
17 requirements of that code shall constitute good engineering
18 practice by the utilities. The administrative authority
19 referred to in the 1984 edition of the National Electrical
20 Safety Code is the commission. However, nothing herein shall
21 be construed as superseding, repealing, or amending the
22 provisions of s. 403.523(1) and (10).

23 Section 17. Subsections (1) and (8) of section 366.05,
24 Florida Statutes, are amended to read:

25 366.05 Powers.--

26 (1) In the exercise of such jurisdiction, the
27 commission shall have power to prescribe fair and reasonable
28 rates and charges, classifications, standards of quality and
29 measurements, including the ability to adopt construction
30 standards that exceed the National Electrical Safety Code, for
31 purposes of ensuring the reliable provision of service, and

1 service rules and regulations to be observed by each public
2 utility; to require repairs, improvements, additions,
3 replacements, and extensions to the plant and equipment of any
4 public utility when reasonably necessary to promote the
5 convenience and welfare of the public and secure adequate
6 service or facilities for those reasonably entitled thereto;
7 to employ and fix the compensation for such examiners and
8 technical, legal, and clerical employees as it deems necessary
9 to carry out the provisions of this chapter; and to adopt
10 rules pursuant to ss. 120.536(1) and 120.54 to implement and
11 enforce the provisions of this chapter.

12 (8) If the commission determines that there is
13 probable cause to believe that inadequacies exist with respect
14 to the energy grids developed by the electric utility
15 industry, including inadequacies in fuel diversity or fuel
16 supply reliability, it shall have the power, after proceedings
17 as provided by law, and after a finding that mutual benefits
18 will accrue to the electric utilities involved, to require
19 installation or repair of necessary facilities, including
20 generating plants and transmission facilities, with the costs
21 to be distributed in proportion to the benefits received, and
22 to take all necessary steps to ensure compliance. The electric
23 utilities involved in any action taken or orders issued
24 pursuant to this subsection shall have full power and
25 authority, notwithstanding any general or special laws to the
26 contrary, to jointly plan, finance, build, operate, or lease
27 generating and transmission facilities and shall be further
28 authorized to exercise the powers granted to corporations in
29 chapter 361. This subsection shall not supersede or control
30 any provision of the Florida Electrical Power Plant Siting
31 Act, ss. 403.501-403.518.

1 Section 18. Section 366.92, Florida Statutes, is
2 created to read:

3 366.92 Florida renewable energy policy.--

4 (1) It is the intent of the Legislature to promote the
5 development of renewable energy; protect the economic
6 viability of Florida's existing renewable energy facilities;
7 diversify the types of fuel used to generate electricity in
8 Florida; lessen Florida's dependence on natural gas and fuel
9 oil for the production of electricity; minimize the volatility
10 of fuel costs; encourage investment within the state; improve
11 environmental conditions; and at the same time, minimize the
12 costs of power supply to electric utilities and their
13 customers.

14 (2) For the purposes of this section, "Florida
15 renewable energy resources" shall mean renewable energy, as
16 defined in s. 377.803, that is produced in Florida.

17 (3) The commission may adopt appropriate goals for
18 increasing the use of existing, expanded, and new Florida
19 renewable energy resources. The commission may change the
20 goals. The commission may review and reestablish the goals at
21 least once every five years.

22 (4) The commission may adopt rules to administer and
23 implement the provisions of this section.

24 Section 19. (1) The Florida Public Service Commission
25 shall direct a study of the electric transmission grid in the
26 state. The study shall look at electric system reliability to
27 examine the efficiency and reliability of power transfer and
28 emergency contingency conditions. In addition, the study shall
29 examine the hardening of infrastructure to address issues
30 arising from the 2004 and 2005 hurricane seasons. A report of
31 the results of the study shall be provided to the Governor,

1 the President of the Senate, and the Speaker of the House of
2 Representatives by March 1, 2007.

3 (2) The commission shall conduct a review to determine
4 what should be done to enhance the reliability of Florida's
5 transmission and distribution grids during extreme weather
6 events, including the strengthening of distribution and
7 transmission facilities. Considerations may include:

8 (a) Recommendations for promoting and encouraging
9 underground electric distribution for new service or
10 construction provided by public utilities.

11 (b) Recommendations for promoting and encouraging the
12 conversion of existing overhead distribution facilities to
13 underground facilities, including any recommended incentives
14 to local governments for local-government-sponsored
15 conversions.

16 (c) Recommendations as to whether incentives for
17 local-government-sponsored conversions should include
18 participation by a public utility in the conversion costs as
19 an investment in the reliability of the grid in total, with
20 such investment recognized as a new plant in service for
21 regulatory purposes.

22 (d) Recommendations for promoting and encouraging the
23 use of road rights-of-way for the location of underground
24 facilities in any local-government-sponsored conversion
25 project, provided the customers of the public utility do not
26 incur increased liability and future relocation costs.

27 (3) The commission shall submit its review and
28 recommendations to the Governor, the President of the Senate,
29 and the Speaker of the House of Representatives by July 1,
30 2007.

31

1 (4) This section does not limit the existing
2 jurisdiction or powers of the commission. It may not be
3 construed to delay or defer any activities that are currently
4 docketed which relate to matters to be addressed by the study
5 required by this section, nor may it be construed to delay or
6 defer any case or proceeding that may be initiated before the
7 commission pursuant to current statutory powers of the
8 commission.

9 Section 20. Subsections (5), (8), (9), (12), (18),
10 (24), and (27) of section 403.503, Florida Statutes, are
11 amended, subsections (6) through (28) are renumbered as (7)
12 through (29), respectively, and new subsections (6) and (16)
13 are added to that section, to read:

14 403.503 Definitions relating to Florida Electrical
15 Power Plant Siting Act.--As used in this act:

16 (5) "Application" means the documents required by the
17 department to be filed to initiate a certification review and
18 evaluation, including the initial document filing, amendments,
19 and responses to requests from the department for additional
20 data and information ~~proceeding and shall include the~~
21 ~~documents necessary for the department to render a decision on~~
22 ~~any permit required pursuant to any federally delegated or~~
23 ~~approved permit program.~~

24 (6) "Associated facilities" means, for the purpose of
25 certification, those facilities which directly support the
26 construction and operation of the electrical power plant such
27 as fuel unloading facilities; pipelines necessary for
28 transporting fuel for the operation of the facility or other
29 fuel transportation facilities; water or wastewater transport
30 pipelines; construction, maintenance, and access roads; and
31

1 railway lines necessary for transport of construction
2 equipment or fuel for the operation of the facility.

3 (8) "Completeness" means that the application has
4 addressed all applicable sections of the prescribed
5 application format, and ~~but does not mean~~ that those sections
6 are sufficient in comprehensiveness of data or in quality of
7 information provided to allow the department to determine
8 whether the application provides the reviewing agencies
9 adequate information to prepare the reports required by s.
10 403.507.

11 (9) "Corridor" means the proposed area within which an
12 associated linear facility right-of-way is to be located. The
13 width of the corridor proposed for certification as an
14 associated facility, at the option of the applicant, may be
15 the width of the right-of-way or a wider boundary, not to
16 exceed a width of 1 mile. The area within the corridor in
17 which a right-of-way may be located may be further restricted
18 by a condition of certification. After all property interests
19 required for the right-of-way have been acquired by the
20 licensee applicant, the boundaries of the area certified shall
21 narrow to only that land within the boundaries of the
22 right-of-way.

23 (12) "Electrical power plant" means, for the purpose
24 of certification, any steam or solar electrical generating
25 facility using any process or fuel, including nuclear
26 materials, ~~and includes associated facilities which directly~~
27 ~~support the construction and operation of the electrical power~~
28 ~~plant and those associated transmission lines which connect~~
29 ~~the electrical power plant to an existing transmission network~~
30 ~~or rights of way to which the applicant intends to connect,~~
31 except that this term does not include any steam or solar

1 electrical generating facility of less than 75 megawatts in
2 capacity unless the applicant for such a facility elects to
3 apply for certification under this act. This term includes
4 associated facilities to be owned by the applicant which are
5 physically connected to the electrical power plant site or
6 which are directly connected to the electrical power plant
7 site by other proposed associated facilities to be owned by
8 the applicant, and associated transmission lines to be owned
9 by the applicant which connect the electrical power plant to
10 an existing transmission network or rights-of-way of which the
11 applicant intends to connect. ~~An associated transmission line~~
12 ~~may include,~~ At the applicant's option, this term may include,
13 any offsite associated facilities which will not be owned by
14 the applicant; offsite associated facilities which are owned
15 by the applicant but which are not directly connected to the
16 electrical power plant site; any proposed terminal or
17 intermediate substations or substation expansions connected to
18 the associated transmission line; or new transmission lines,
19 upgrades, or improvements of an existing transmission line on
20 any portion of the applicant's electrical transmission system
21 necessary to support the generation injected into the system
22 from the proposed electrical power plant.

23 (16) "Licensee" means an applicant that has obtained a
24 certification order for the subject project.

25 ~~(19)(18)~~ "Nonprocedural requirements of agencies"
26 means any agency's regulatory requirements established by
27 statute, rule, ordinance, zoning ordinance, land development
28 code, or comprehensive plan, excluding any provisions
29 prescribing forms, fees, procedures, or time limits for the
30 review or processing of information submitted to demonstrate
31 compliance with such regulatory requirements.

1 ~~(25)(24)~~ "Right-of-way" means land necessary for the
 2 construction and maintenance of a connected associated linear
 3 facility, such as a railroad line, pipeline, or transmission
 4 line as owned by or proposed to be certified by the applicant.
 5 The typical width of the right-of-way shall be identified in
 6 the application. The right-of-way shall be located within the
 7 certified corridor and shall be identified by the applicant
 8 subsequent to certification in documents filed with the
 9 department prior to construction.

10 ~~(28)(27)~~ "Ultimate site capacity" means the maximum
 11 generating capacity for a site as certified by the board.

12 ~~"Sufficiency" means that the application is not only complete~~
 13 ~~but that all sections are sufficient in the comprehensiveness~~
 14 ~~of data or in the quality of information provided to allow the~~
 15 ~~department to determine whether the application provides the~~
 16 ~~reviewing agencies adequate information to prepare the reports~~
 17 ~~required by s. 403.507.~~

18 Section 21. Subsections (1), (7), (9), and (10) of
 19 section 403.504, Florida Statutes, are amended, and new
 20 subsections (9), (10), (11), and (12) are added to that
 21 section, to read:

22 403.504 Department of Environmental Protection; powers
 23 and duties enumerated.--The department shall have the
 24 following powers and duties in relation to this act:

25 (1) To adopt rules pursuant to ss. 120.536(1) and
 26 120.54 to implement the provisions of this act, including
 27 rules setting forth environmental precautions to be followed
 28 in relation to the location, construction, and operation of
 29 electrical power plants.

30 (7) To conduct studies and prepare a project written
 31 analysis under s. 403.507.

1 (9) To issue final orders after receipt of the
2 administrative law judge's order relinquishing jurisdiction
3 pursuant to s. 403.508(6).

4 (10) To act as clerk for the siting board.

5 (11) To administer and manage the terms and conditions
6 of the certification order and supporting documents and
7 records for the life of the facility.

8 (12) To issue emergency orders on behalf of the board
9 for facilities licensed under this act.

10 ~~(9) To notify all affected agencies of the filing of a~~
11 ~~notice of intent within 15 days after receipt of the notice.~~

12 ~~(10) To issue, with the electrical power plant~~
13 ~~certification, any license required pursuant to any federally~~
14 ~~delegated or approved permit program.~~

15 Section 22. Section 403.5055, Florida Statutes, is
16 amended to read:

17 403.5055 Application for permits pursuant to s.
18 403.0885.--In processing applications for permits pursuant to
19 s. 403.0885 that are associated with applications for
20 electrical power plant certification:

21 (1) The procedural requirements set forth in 40 C.F.R.
22 s. 123.25, including public notice, public comments, and
23 public hearings, shall be closely coordinated with the
24 certification process established under this part. In the
25 event of a conflict between the certification process and
26 federally required procedures for NPDES permit issuance, the
27 applicable federal requirements shall control.

28 ~~(2) The department's proposed action pursuant to 40~~
29 ~~C.F.R. s. 124.6, including any draft NPDES permit (containing~~
30 ~~the information required under 40 C.F.R. s. 124.6(d)), shall~~
31 ~~within 130 days after the submittal of a complete application~~

1 ~~be publicly noticed and transmitted to the United States~~
2 ~~Environmental Protection Agency for its review pursuant to 33~~
3 ~~U.S.C. s. 1342(d).~~

4 (2)(3) If available at the time the department issues
5 its project analysis pursuant to s. 403.507(5), the department
6 shall include in its project analysis ~~written analysis~~
7 ~~pursuant to s. 403.507(3)~~ copies of the department's proposed
8 action pursuant to 40 C.F.R. s. 124.6 on any application for a
9 NPDES permit; any corresponding comments received from the
10 United States Environmental Protection Agency, the applicant,
11 or the general public; and the department's response to those
12 comments.

13 (3)(4) The department shall not issue or deny the
14 permit pursuant to s. 403.0885 in advance of the issuance of
15 the electrical electric power plant certification under this
16 part unless required to do so by the provisions of federal
17 law. When possible, any hearing on a permit issued pursuant to
18 s. 403.0885 shall be conducted in conjunction with the
19 certification hearing held pursuant to this act. The
20 department's actions on an NPDES permit shall be based on the
21 record and recommended order of the certification hearing, if
22 the hearing on the NPDES was conducted in conjunction with the
23 certification hearing, and of any other proceeding held in
24 connection with the application for an NPDES permit, timely
25 public comments received with respect to the application, and
26 the provisions of federal law. The department's action on an
27 NPDES permit, if issued, shall differ from the actions taken
28 by the siting board regarding the certification order if
29 federal laws and regulations require different action to be
30 taken to ensure compliance with the Clean Water Act, as
31 amended, and implementing regulations. Nothing in this part

1 shall be construed to displace the department's authority as
2 the final permitting entity under the federally approved state
3 NPDES program. Nothing in this part shall be construed to
4 authorize the issuance of a state NPDES permit which does not
5 conform to the requirements of the federally approved state
6 NPDES program. ~~The permit, if issued, shall be valid for no~~
7 ~~more than 5 years.~~

8 ~~(5) The department's action on an NPDES permit~~
9 ~~renewal, if issued, shall differ from the actions taken by the~~
10 ~~siting board regarding the certification order if federal laws~~
11 ~~and regulations require different action to be taken to ensure~~
12 ~~compliance with the Clean Water Act, as amended, and~~
13 ~~implementing regulations.~~

14 Section 23. Section 403.506, Florida Statutes, is
15 amended to read:

16 403.506 Applicability, thresholds, and
17 certification.--

18 (1) The provisions of this act shall apply to any
19 electrical power plant as defined herein, except that the
20 provisions of this act shall not apply to any electrical power
21 plant or steam generating plant of less than 75 megawatts in
22 capacity or to any substation to be constructed as part of an
23 associated transmission line unless the applicant has elected
24 to apply for certification of such plant or substation under
25 this act. The provisions of this act shall not apply to any
26 unit capacity expansion of 35 megawatts or less of an existing
27 exothermic reaction cogeneration unit that was exempt from
28 this act when it was originally built; however, this exemption
29 shall not apply if the unit uses oil or natural gas for
30 purposes other than unit startup. No construction of any new
31 electrical power plant or expansion in steam generating

1 capacity as measured by an increase in the maximum electrical
2 generator rating of any existing electrical power plant may be
3 undertaken after October 1, 1973, without first obtaining
4 certification in the manner as herein provided, except that
5 this act shall not apply to any such electrical power plant
6 which is presently operating or under construction or which
7 has, upon the effective date of chapter 73-33, Laws of
8 Florida, applied for a permit or certification under
9 requirements in force prior to the effective date of such act.

10 (2) Except as provided in the certification,
11 modification of nonnuclear fuels, internal related hardware,
12 including increases in steam turbine efficiency, or operating
13 conditions not in conflict with certification which increase
14 the electrical output of a unit to no greater capacity than
15 the maximum electrical generator rating ~~operating capacity~~ of
16 the existing generator shall not constitute an alteration or
17 addition to generating capacity which requires certification
18 pursuant to this act.

19 ~~(3) The application for any related department license~~
20 ~~which is required pursuant to any federally delegated or~~
21 ~~approved permit program shall be processed within the time~~
22 ~~periods allowed by this act, in lieu of those specified in s.~~
23 ~~120.60. However, permits issued pursuant to s. 403.0885 shall~~
24 ~~be processed in accordance with 40 C.F.R. part 123.~~

25 Section 24. Section 403.5064, Florida Statutes, is
26 amended to read:

27 403.5064 Application ~~Distribution of application;~~
28 schedules.--

29 (1) The formal date of filing of a certification
30 application and commencement of the certification review
31 process shall be when the applicant submits:

1 (a) Copies of the certification application in a
2 quantity and format as prescribed by rule to the department
3 and other agencies identified in s. 403.507(2)(a).

4 (b) The application fee specified under s. 403.518 to
5 the department.

6 (2)(1) Within 7 days after the filing of an
7 application, the department shall provide to the applicant and
8 the Division of Administrative Hearings the names and
9 addresses of any additional ~~those affected or other~~ agencies
10 or persons entitled to notice and copies of the application
11 and any amendments. Copies of the application shall be
12 distributed within 5 days by the applicant to these additional
13 agencies. This distribution shall not be a basis for altering
14 the schedule of dates for the certification process.

15 (3) Any amendment to the application made prior to
16 certification shall be disposed of as part of the original
17 certification proceeding. Amendment of the application may be
18 considered good cause for alteration of time limits pursuant
19 to s. 403.5095.

20 (4)(2) Within 7 days after the filing of an
21 application ~~completeness has been determined~~, the department
22 shall prepare a proposed schedule of dates for determination
23 of completeness, submission of statements of issues,
24 ~~determination of sufficiency, and~~ submittal of final reports,
25 ~~from affected and other agencies~~ and other significant dates
26 to be followed during the certification process, including
27 dates for filing notices of appearance to be a party pursuant
28 to s. 403.508(3)(4). This schedule shall be timely provided by
29 the department to the applicant, the administrative law judge,
30 all agencies identified pursuant to subsection(2)(1), and
31 all parties. Within 7 days after the filing of the proposed

1 schedule, the administrative law judge shall issue an order
2 establishing a schedule for the matters addressed in the
3 department's proposed schedule and other appropriate matters,
4 if any.

5 ~~(5)(3) Within 7 days after completeness has been~~
6 ~~determined, the applicant shall distribute copies of the~~
7 ~~application to all agencies identified by the department~~
8 ~~pursuant to subsection (1).~~ Copies of changes and amendments
9 to the application shall be timely distributed by the
10 applicant to all ~~affected~~ agencies and parties who have
11 received a copy of the application.

12 (6) Notice of the filing of the application shall be
13 published in accordance with the requirements of s. 403.5115.

14 Section 25. Section 403.5065, Florida Statutes, is
15 amended to read:

16 403.5065 Appointment of administrative law judge;
17 powers and duties.--

18 (1) Within 7 days after receipt of an application,
19 ~~whether complete or not,~~ the department shall request the
20 Division of Administrative Hearings to designate an
21 administrative law judge to conduct the hearings required by
22 this act. The division director shall designate an
23 administrative law judge within 7 days after receipt of the
24 request from the department. In designating an administrative
25 law judge for this purpose, the division director shall,
26 whenever practicable, assign an administrative law judge who
27 has had prior experience or training in electrical power plant
28 site certification proceedings. Upon being advised that an
29 administrative law judge has been appointed, the department
30 shall immediately file a copy of the application and all
31

1 supporting documents with the designated administrative law
2 judge, who shall docket the application.

3 (2) The administrative law judge shall have all powers
4 and duties granted to administrative law judges by chapter 120
5 and by the laws and rules of the department.

6 Section 26. Section 403.5066, Florida Statutes, is
7 amended to read:

8 403.5066 Determination of completeness.--

9 (1)(a) Within 30 days after the filing of an
10 application, affected agencies shall file a statement with the
11 department containing each agency's recommendations on the
12 completeness of the application.

13 (b) Within 40 15 days after the filing receipt of an
14 application, the department shall file a statement with the
15 Division of Administrative Hearings, and with the applicant,
16 and with all parties declaring its position with regard to the
17 completeness, not the sufficiency, of the application. The
18 department's statement shall be based upon consultation with
19 the affected agencies.

20 (2)(1) If the department declares the application to
21 be incomplete, the applicant, within 15 days after the filing
22 of the statement by the department, shall file with the
23 Division of Administrative Hearings, and with the department,
24 and all parties a statement:

25 (a) A withdrawal of Agreeing with the statement of the
26 department and withdrawing the application;

27 (b) A statement agreeing to supply the additional
28 information necessary to make the application complete. Such
29 additional information shall be provided within 30 days after
30 the issuance of the department's statement on completeness of
31 the application. The time schedules under this act shall not

1 be tolled if the applicant makes the application complete
2 within 30 days after the issuance of the department's
3 statement on completeness of the application. A subsequent
4 finding by the department that the application remains
5 incomplete, based upon the additional information submitted by
6 the applicant or upon the failure of the applicant to timely
7 submit the additional information, tolls the time schedules
8 under this act until the application is determined complete;
9 ~~Agreeing with the statement of the department and agreeing to~~
10 ~~amend the application without withdrawing it. The time~~
11 ~~schedules referencing a complete application under this act~~
12 ~~shall not commence until the application is determined~~
13 ~~complete; or~~

14 (c) A statement contesting the department's
15 determination of incompleteness; or ~~contesting the statement~~
16 ~~of the department.~~

17 (d) A statement agreeing with the department and
18 requesting additional time beyond 30 days to provide the
19 information necessary to make the application complete. If the
20 applicant exercises this option, the time schedules under this
21 act are tolled until the application is determined complete.

22 ~~(3)(a)(2)~~ If the applicant contests the determination
23 by the department that an application is incomplete, the
24 administrative law judge shall schedule a hearing on the
25 statement of completeness. The hearing shall be held as
26 expeditiously as possible, but not later than 21 ~~30~~ days after
27 the filing of the statement by the department. The
28 administrative law judge shall render a decision within 7 ~~10~~
29 days after the hearing.

30
31

1 (b) Parties to a hearing on the issue of completeness
2 shall include the applicant, the department, and any agency
3 that has jurisdiction over the matter in dispute.

4 ~~(c)(a)~~ If the administrative law judge determines that
5 the application was not complete ~~as filed~~, the applicant shall
6 withdraw the application or make such additional submittals as
7 necessary to complete it. The time schedules referencing a
8 complete application under this act shall not commence until
9 the application is determined complete.

10 ~~(d)(b)~~ If the administrative law judge determines that
11 the application was complete at the time it was declared
12 incomplete~~filed~~, the time schedules referencing a complete
13 application under this act shall commence upon such
14 determination.

15 (4) If the applicant provides additional information
16 to address the issues identified in the determination of
17 incompleteness, each affected agency may submit to the
18 department, no later than 15 days after the applicant files
19 the additional information, a recommendation on whether the
20 agency believes the application is complete. Within 22 days
21 after receipt of the additional information from the applicant
22 submitted under paragraph (2)(b), paragraph (2)(d), or
23 paragraph (3)(c), the department shall determine whether the
24 additional information supplied by an applicant makes the
25 application complete. If the department finds that the
26 application is still incomplete, the applicant may exercise
27 any of the options specified in subsection (2) as often as is
28 necessary to resolve the dispute.

29 Section 27. Section 403.50663, Florida Statutes, is
30 created to read:

31 403.50663 Informational public meetings.--

1 (1) A local government within whose jurisdiction the
2 power plant is proposed to be sited may hold one informational
3 public meeting in addition to the hearings specifically
4 authorized by this act on any matter associated with the
5 electrical power plant proceeding. Such informational public
6 meetings shall be held by the local government or by the
7 regional planning council if the local government does not
8 hold such meeting within 70 days after the filing of the
9 application. The purpose of an informational public meeting is
10 for the local government or regional planning council to
11 further inform the public about the proposed electrical power
12 plant or associated facilities, obtain comments from the
13 public, and formulate its recommendation with respect to the
14 proposed electrical power plant.

15 (2) Informational public meetings shall be held solely
16 at the option of each local government or regional planning
17 council if a public meeting is not held by the local
18 government. It is the legislative intent that local
19 governments or regional planning councils attempt to hold such
20 public meetings. Parties to the proceedings under this act
21 shall be encouraged to attend; however, no party other than
22 the applicant and the department shall be required to attend
23 such informational public meetings.

24 (3) A local government or regional planning council
25 that intends to conduct an informational public meeting must
26 provide notice of the meeting to all parties not less than 5
27 days prior to the meeting.

28 (4) The failure to hold an informational public
29 meeting or the procedure used for the informational public
30 meeting are not grounds for the alteration of any time
31

1 limitation in this act under s. 403.5095 or grounds to deny or
2 condition certification.

3 Section 28. Section 403.50665, Florida Statutes, is
4 created to read:

5 403.50665 Land use consistency.--

6 (1) The applicant shall include in the application a
7 statement on the consistency of the site or any directly
8 associated facilities with existing land use plans and zoning
9 ordinances that were in effect on the date the application was
10 filed and a full description of such consistency.

11 (2) Within 45 days after the filing of the
12 application, each local government shall file a determination
13 with the department, the applicant, the administrative law
14 judge, and all parties on the consistency of the site or any
15 directly associated facilities with existing land use plans
16 and zoning ordinances that were in effect on the date the
17 application was filed, based on the information provided in
18 the application. The local government may issue its
19 determination up to 35 days later if the local government has
20 requested additional information on land use and zoning
21 consistency as part of the local government's statement on
22 completeness of the application submitted pursuant to s.
23 403.5066(1)(a). Notice of the consistency determination shall
24 be published in accordance with the requirements of s.
25 403.5115.

26 (3) If the local government issues a determination
27 that the proposed electrical power plant is not consistent or
28 in compliance with local land use plans and zoning ordinances,
29 the applicant may apply to the local government for the
30 necessary local approval to address the inconsistencies in the
31 local government's determination. If the applicant makes such

1 an application to the local government, the time schedules
2 under this act shall be tolled until the local government
3 issues its revised determination on land use and zoning or the
4 applicant otherwise withdraws its application to the local
5 government. If the applicant applies to the local government
6 for necessary local land use or zoning approval, the local
7 government shall issue a revised determination within 30 days
8 following the conclusion of that local proceeding, and the
9 time schedules and notice requirements under this act shall
10 apply to such revised determination.

11 (4) If any substantially affected person wishes to
12 dispute the local government's determination, he or she shall
13 file a petition with the department within 21 days after the
14 publication of notice of the local government's determination.
15 If a hearing is requested, the provisions of s. 403.508(1)
16 shall apply.

17 (5) The dates in this section may be altered upon
18 agreement between the applicant, the local government, and the
19 department pursuant to s. 403.5095.

20 (6) If it is determined by the local government that
21 the proposed site or directly associated facility does conform
22 with existing land use plans and zoning ordinances in effect
23 as of the date of the application and no petition has been
24 filed, the responsible zoning or planning authority shall not
25 thereafter change such land use plans or zoning ordinances so
26 as to foreclose construction and operation of the proposed
27 site or directly associated facilities unless certification is
28 subsequently denied or withdrawn.

29 Section 29. Section 403.5067, Florida Statutes, is
30 repealed.

31

1 Section 30. Section 403.507, Florida Statutes, is
2 amended to read:

3 403.507 Preliminary statements of issues, reports,
4 project analyses, and studies.--

5 (1) Each affected agency identified in paragraph
6 (2)(a) shall submit a preliminary statement of issues to the
7 department, ~~and the applicant, and all parties~~ no later than
8 ~~4060~~ days after the certification application has been
9 ~~determined~~distribution of the complete application. The
10 failure to raise an issue in this statement shall not preclude
11 the issue from being raised in the agency's report.

12 (2)(a) No later than 100 days after the certification
13 application has been determined complete, the following
14 agencies shall prepare reports as provided below and shall
15 submit them to the department and the applicant ~~within 150~~
16 ~~days after distribution of the complete application:~~

17 1. The Department of Community Affairs shall prepare a
18 report containing recommendations which address the impact
19 upon the public of the proposed electrical power plant, based
20 on the degree to which the electrical power plant is
21 consistent with the applicable portions of the state
22 comprehensive plan, emergency management, and other such
23 matters within its jurisdiction. The Department of Community
24 Affairs may also comment on the consistency of the proposed
25 electrical power plant with applicable strategic regional
26 policy plans or local comprehensive plans and land development
27 regulations.

28 ~~2. The Public Service Commission shall prepare a~~
29 ~~report as to the present and future need for the electrical~~
30 ~~generating capacity to be supplied by the proposed electrical~~
31 ~~power plant. The report shall include the commission's~~

1 ~~determination pursuant to s. 403.519 and may include the~~
2 ~~commission's comments with respect to any other matters within~~
3 ~~its jurisdiction.~~

4 2.3. The water management district shall prepare a
5 report as to matters within its jurisdiction, including but
6 not limited to, the impact of the proposed electrical power
7 plant on water resources, regional water supply planning, and
8 district-owned lands and works .

9 3.4. Each local government in whose jurisdiction the
10 proposed electrical power plant is to be located shall prepare
11 a report as to the consistency of the proposed electrical
12 power plant with all applicable local ordinances, regulations,
13 standards, or criteria that apply to the proposed electrical
14 power plant, including ~~adopted local comprehensive plans, land~~
15 ~~development regulations, and~~ any applicable local
16 environmental regulations adopted pursuant to s. 403.182 or by
17 other means.

18 4.5. The Fish and Wildlife Conservation Commission
19 shall prepare a report as to matters within its jurisdiction.

20 5.6. Each ~~The~~ regional planning council shall prepare
21 a report containing recommendations that address the impact
22 upon the public of the proposed electrical power plant, based
23 on the degree to which the electrical power plant is
24 consistent with the applicable provisions of the strategic
25 regional policy plan adopted pursuant to chapter 186 and other
26 matters within its jurisdiction.

27 6. The Department of Transportation shall address the
28 impact of the proposed electrical power plant on matters
29 within its jurisdiction.

30 (b)7. Any other agency, if requested by the
31 department, shall also perform studies or prepare reports as

1 to matters within that agency's jurisdiction which may
2 potentially be affected by the proposed electrical power
3 plant.

4 ~~(b) As needed to verify or supplement the studies made~~
5 ~~by the applicant in support of the application, it shall be~~
6 ~~the duty of the department to conduct, or contract for,~~
7 ~~studies of the proposed electrical power plant and site,~~
8 ~~including, but not limited to, the following, which shall be~~
9 ~~completed no later than 210 days after the complete~~
10 ~~application is filed with the department:~~

- 11 1. ~~Cooling system requirements.~~
- 12 2. ~~Construction and operational safeguards.~~
- 13 3. ~~Proximity to transportation systems.~~
- 14 4. ~~Soil and foundation conditions.~~
- 15 5. ~~Impact on suitable present and projected water~~
16 ~~supplies for this and other competing uses.~~
- 17 6. ~~Impact on surrounding land uses.~~
- 18 7. ~~Accessibility to transmission corridors.~~
- 19 8. ~~Environmental impacts.~~
- 20 9. ~~Requirements applicable under any federally~~
21 ~~delegated or approved permit program.~~

22 ~~(3)(c)~~ Each report described in subsection (2)
23 ~~paragraphs (a) and (b)~~ shall contain:

24 (a) A notice of any nonprocedural requirements not
25 specifically listed in the application from which a variance,
26 exemption, exception all information on variances, exemptions,
27 exceptions, or other relief is necessary in order for the
28 proposed electrical power plant to be certified. Failure of
29 such notification by an agency shall be treated as a waiver
30 from nonprocedural requirements of that agency. However, no
31 variance shall be granted from standards or regulations of the

1 department applicable under any federally delegated or
2 approved permit program, except as expressly allowed in such
3 program. which may be required by s. 403.511(2) and

4 (b) A recommendation for approval or denial of the
5 application.

6 (c) Any proposed conditions of certification on
7 matters within the jurisdiction of such agency. For each
8 condition proposed by an agency in its report, the agency
9 shall list the specific statute, rule, or ordinance which
10 authorizes the proposed condition.

11 (d) The agencies shall initiate the activities
12 required by this section no later than 15 ~~30~~ days after the
13 complete application is distributed. The agencies shall keep
14 the applicant and the department informed as to the progress
15 of the studies and any issues raised thereby.

16 ~~(3) No later than 60 days after the application for a~~
17 ~~federally required new source review or prevention of~~
18 ~~significant deterioration permit for the electrical power~~
19 ~~plant is complete and sufficient, the department shall issue~~
20 ~~its preliminary determination on such permit. Notice of such~~
21 ~~determination shall be published as required by the~~
22 ~~department's rules for notices of such permits. The department~~
23 ~~shall receive public comments and comments from the United~~
24 ~~States Environmental Protection Agency and other affected~~
25 ~~agencies on the preliminary determination as provided for in~~
26 ~~the federally approved state implementation plan. The~~
27 ~~department shall maintain a record of all comments received~~
28 ~~and considered in taking action on such permits. If a petition~~
29 ~~for an administrative hearing on the department's preliminary~~
30 ~~determination is filed by a substantially affected person,~~

31

1 ~~that hearing shall be consolidated with the certification~~
2 ~~hearing.~~

3 (4)(a) No later than 150 days after the application is
4 filed, the Public Service Commission shall prepare a report as
5 to the present and future need for electrical generating
6 capacity to be supplied by the proposed electrical power
7 plant. The report shall include the commission's determination
8 pursuant to s. 403.519 and may include the commission's
9 comments with respect to any other matters within its
10 jurisdiction.

11 (b) Receipt of an affirmative determination of need by
12 the submittal deadline under paragraph (a) shall be a
13 condition precedent to issuance of the department's project
14 analysis and conduct of the certification hearing.

15 ~~(5)(4)~~ The department shall prepare a project ~~written~~
16 analysis, which shall be filed with the designated
17 administrative law judge and served on all parties no later
18 than 130 ~~240~~ days after the ~~complete~~ application is determined
19 ~~complete~~ filed with the department, but no later than ~~60 days~~
20 ~~prior to the hearing~~, and which shall include:

21 (a) A statement indicating whether the proposed
22 electrical power plant and proposed ultimate site capacity
23 will be in compliance and consistent with matters within the
24 department's standard jurisdiction, including with the rules
25 of the department, as well as whether the proposed electrical
26 power plant and proposed ultimate site capacity will be in
27 compliance with the nonprocedural requirements of the affected
28 agencies.

29 (b) Copies of the studies and reports required by this
30 section ~~and s. 403.519.~~

31

1 (c) The comments received by the department from any
2 other agency or person.

3 (d) The recommendation of the department as to the
4 disposition of the application, of variances, exemptions,
5 exceptions, or other relief identified by any party, and of
6 any proposed conditions of certification which the department
7 believes should be imposed.

8 (e) If available, the recommendation of the department
9 regarding the issuance of any license required pursuant to a
10 federally delegated or approved permit program.

11 ~~(f) Copies of the department's draft of the operation~~
12 ~~permit for a major source of air pollution, which must also be~~
13 ~~provided to the United States Environmental Protection Agency~~
14 ~~for review within 5 days after issuance of the written~~
15 ~~analysis.~~

16 ~~(6)(5)~~ Except when good cause is shown, the failure of
17 any agency to submit a preliminary statement of issues or a
18 report, or to submit its preliminary statement of issues or
19 report within the allowed time, shall not be grounds for the
20 alteration of any time limitation in this act. Neither the
21 failure to submit a preliminary statement of issues or a
22 report nor the inadequacy of the preliminary statement of
23 issues or report ~~are shall be~~ grounds to deny or condition
24 certification.

25 Section 31. Section 403.508, Florida Statutes, is
26 amended to read:

27 403.508 Land use and certification hearings
28 ~~proceedings~~, parties, participants.--

29 (1)(a) If a petition for a hearing on land use has
30 been filed pursuant to s. 403.50665, the designated
31 administrative law judge shall conduct a land use hearing in

1 the county of the proposed site or directly associated
2 facility, as applicable, as expeditiously as possible, but not
3 later than 30 ~~within 90~~ days after the department's receipt of
4 the petition a complete application for electrical power plant
5 site certification by the department. The place of such
6 hearing shall be as close as possible to the proposed site or
7 directly associated facility. If a petition is filed, the
8 hearing shall be held regardless of the status of the
9 completeness of the application. However, incompleteness of
10 information necessary for a local government to evaluate an
11 application may be claimed by the local government as cause
12 for a statement of inconsistency with existing land use plans
13 and zoning ordinances under s. 403.50665.

14 (b) Notice of the land use hearing shall be published
15 in accordance with the requirements of s. 403.5115.

16 (c)(2) The sole issue for determination at the land
17 use hearing shall be whether or not the proposed site is
18 consistent and in compliance with existing land use plans and
19 zoning ordinances. If the administrative law judge concludes
20 that the proposed site is not consistent or in compliance with
21 existing land use plans and zoning ordinances, the
22 administrative law judge shall receive at the hearing evidence
23 on, and address in the recommended order any changes to or
24 approvals or variances under, the applicable land use plans or
25 zoning ordinances which will render the proposed site
26 consistent and in compliance with the local land use plans and
27 zoning ordinances.

28 (d) The designated administrative law judge's
29 recommended order shall be issued within 30 days after
30 completion of the hearing and shall be reviewed by the board
31

1 within ~~60~~ 45 days after receipt of the recommended order by
2 the board.

3 (e) If it is determined by the board that the proposed
4 site does conform with existing land use plans and zoning
5 ordinances in effect as of the date of the application, or as
6 otherwise provided by this act, the responsible zoning or
7 planning authority shall not thereafter change such land use
8 plans or zoning ordinances so as to foreclose construction and
9 operation of ~~affect~~ the proposed electrical power plant on the
10 proposed site or directly associated facilities unless
11 certification is subsequently denied or withdrawn.

12 (f) If it is determined by the board that the proposed
13 site does not conform with existing land use plans and zoning
14 ordinances, ~~it shall be the responsibility of the applicant to~~
15 ~~make the necessary application for rezoning. Should the~~
16 ~~application for rezoning be denied, the applicant may appeal~~
17 ~~this decision to the board, which may, if it determines after~~
18 notice and hearing and upon consideration of the recommended
19 order on land use and zoning issues that it is in the public
20 interest to authorize the use of the land as a site for an
21 electrical power plant, authorize a variance or other
22 necessary approval to the adopted land use plan and zoning
23 ordinances required to render the proposed site consistent
24 with local land use plans and zoning ordinances. The board's
25 action shall not be controlled by any other procedural
26 requirements of law. In the event a variance or other approval
27 is denied by the board, it shall be the responsibility of the
28 applicant to make the necessary application for any approvals
29 determined by the board as required to make the proposed site
30 consistent and in compliance with local land use plans and
31 zoning ordinances. No further action may be taken on the

1 complete application ~~by the department~~ until the proposed site
2 conforms to the adopted land use plan or zoning ordinances or
3 the board grants relief as provided under this act.

4 ~~(2)(a)(3)~~ A certification hearing shall be held by the
5 designated administrative law judge no later than 265 ~~300~~ days
6 after the ~~complete~~ application is filed with the department;
7 ~~however, an affirmative determination of need by the Public~~
8 ~~Service Commission pursuant to s. 403.519 shall be a condition~~
9 ~~precedent to the conduct of the certification hearing.~~ The
10 certification hearing shall be held at a location in proximity
11 to the proposed site. ~~The certification hearing shall also~~
12 ~~constitute the sole hearing allowed by chapter 120 to~~
13 ~~determine the substantial interest of a party regarding any~~
14 ~~required agency license or any related permit required~~
15 ~~pursuant to any federally delegated or approved permit~~
16 ~~program.~~ At the conclusion of the certification hearing, the
17 designated administrative law judge shall, after consideration
18 of all evidence of record, submit to the board a recommended
19 order no later than 45 ~~60~~ days after the filing of the hearing
20 transcript. ~~In the event the administrative law judge fails to~~
21 ~~issue a recommended order within 60 days after the filing of~~
22 ~~the hearing transcript, the administrative law judge shall~~
23 ~~submit a report to the board with a copy to all parties within~~
24 ~~60 days after the filing of the hearing transcript to advise~~
25 ~~the board of the reason for the delay in the issuance of the~~
26 ~~recommended order and of the date by which the recommended~~
27 ~~order will be issued.~~

28 (b) Notice of the certification hearing and notice of
29 the deadline for filing of notice of intent to be a party
30 shall be made in accordance with the requirements of s.
31 403.5115.

1 | ~~(3)(a)(4)(a)~~ Parties to the proceeding shall include:

- 2 | 1. The applicant.
- 3 | 2. The Public Service Commission.
- 4 | 3. The Department of Community Affairs.
- 5 | 4. The Fish and Wildlife Conservation Commission.
- 6 | 5. The water management district.
- 7 | 6. The department.
- 8 | 7. The regional planning council.
- 9 | 8. The local government.
- 10 | 9. The Department of Transportation.

11 | (b) Any party listed in paragraph (a) other than the
 12 | department or the applicant may waive its right to participate
 13 | in these proceedings. If such listed party fails to file a
 14 | notice of its intent to be a party on or before the 90th day
 15 | prior to the certification hearing, such party shall be deemed
 16 | to have waived its right to be a party.

17 | (c) Notwithstanding the provisions of chapter 120,
 18 | upon the filing with the administrative law judge of a notice
 19 | of intent to be a party no later than 75 days after the
 20 | application is filed at least 15 days prior to the date of the
 21 | ~~land use hearing~~, the following shall also be parties to the
 22 | proceeding:

23 | 1. Any agency not listed in paragraph (a) as to
 24 | matters within its jurisdiction.

25 | 2. Any domestic nonprofit corporation or association
 26 | formed, in whole or in part, to promote conservation or
 27 | natural beauty; to protect the environment, personal health,
 28 | or other biological values; to preserve historical sites; to
 29 | promote consumer interests; to represent labor, commercial, or
 30 | industrial groups; or to promote comprehensive planning or
 31 |

1 orderly development of the area in which the proposed
2 electrical power plant is to be located.

3 (d) Notwithstanding paragraph (e), failure of an
4 agency described in subparagraph (c)1. to file a notice of
5 intent to be a party within the time provided herein shall
6 constitute a waiver of the right of that agency to participate
7 as a party in the proceeding.

8 (e) Other parties may include any person, including
9 those persons enumerated in paragraph (c) who have failed to
10 timely file a notice of intent to be a party, whose
11 substantial interests are affected and being determined by the
12 proceeding and who timely file a motion to intervene pursuant
13 to chapter 120 and applicable rules. Intervention pursuant to
14 this paragraph may be granted at the discretion of the
15 designated administrative law judge and upon such conditions
16 as he or she may prescribe any time prior to 30 days before
17 the commencement of the certification hearing.

18 (f) Any agency, including those whose properties or
19 works are being affected pursuant to s. 403.509(4), shall be
20 made a party upon the request of the department or the
21 applicant.

22 (4)(a) The order of presentation at the certification
23 hearing, unless otherwise changed by the administrative law
24 judge to ensure the orderly presentation of witnesses and
25 evidence, shall be:

- 26 1. The applicant.
- 27 2. The department.
- 28 3. State agencies.
- 29 4. Regional agencies, including regional planning
30 councils and water management districts.
- 31 5. Local governments.

1 6. Other parties.

2 ~~(b)(5)~~ When appropriate, any person may be given an
3 opportunity to present oral or written communications to the
4 designated administrative law judge. If the designated
5 administrative law judge proposes to consider such
6 communications, then all parties shall be given an opportunity
7 to cross-examine or challenge or rebut such communications.

8 (5) At the conclusion of the certification hearing,
9 the designated administrative law judge shall, after
10 consideration of all evidence of record, submit to the board a
11 recommended order no later than 45 days after the filing of
12 the hearing transcript.

13 (6)(a) No earlier than 29 days prior to the conduct of
14 the certification hearing, the department or the applicant may
15 request that the administrative law judge cancel the
16 certification hearing and relinquish jurisdiction to the
17 department if all parties to the proceeding stipulate that
18 there are no disputed issues of fact or law to be raised at
19 the certification hearing, and if sufficient time remains for
20 the applicant and the department to publish public notices of
21 the cancellation of the hearing at least 3 days prior to the
22 scheduled date of the hearing.

23 (b) The administrative law judge shall issue an order
24 granting or denying the request within 5 days after receipt of
25 the request.

26 (c) If the administrative law judge grants the
27 request, the department and the applicant shall publish
28 notices of the cancellation of the certification hearing, in
29 accordance with s. 403.5115.

30
31

1 (d)1. If the administrative law judge grants the
2 request, the department shall prepare and issue a final order
3 in accordance with s. 403.509(1)(a).

4 2. Parties may submit proposed recommended orders to
5 the department no later than 10 days after the administrative
6 law judge issues an order relinquishing jurisdiction.

7 (7) The applicant shall pay those expenses and costs
8 associated with the conduct of the hearings and the recording
9 and transcription of the proceedings.

10 ~~(6) The designated administrative law judge shall have~~
11 ~~all powers and duties granted to administrative law judges by~~
12 ~~chapter 120 and this chapter and by the rules of the~~
13 ~~department and the Administration Commission, including the~~
14 ~~authority to resolve disputes over the completeness and~~
15 ~~sufficiency of an application for certification.~~

16 ~~(7) The order of presentation at the certification~~
17 ~~hearing, unless otherwise changed by the administrative law~~
18 ~~judge to ensure the orderly presentation of witnesses and~~
19 ~~evidence, shall be:~~

20 ~~(a) The applicant.~~

21 ~~(b) The department.~~

22 ~~(c) State agencies.~~

23 ~~(d) Regional agencies, including regional planning~~
24 ~~councils and water management districts.~~

25 ~~(e) Local governments.~~

26 ~~(f) Other parties.~~

27 (8) In issuing permits under the federally approved
28 new source review or prevention of significant deterioration
29 permit program, the department shall observe the procedures
30 specified under the federally approved state implementation
31 plan, including public notice, public comment, public hearing,

1 and notice of applications and amendments to federal, state,
2 and local agencies, to assure that all such permits issued in
3 coordination with the certification of a power plant under
4 this act are federally enforceable and are issued after
5 opportunity for informed public participation regarding the
6 terms and conditions thereof. When possible, any hearing on a
7 federally approved or delegated program permit such as new
8 source review, prevention of significant deterioration permit,
9 or NPDES permit shall be conducted in conjunction with the
10 certification hearing held under this act. ~~The department~~
11 ~~shall accept written comment with respect to an application~~
12 ~~for, or the department's preliminary determination on, a new~~
13 ~~source review or prevention of significant deterioration~~
14 ~~permit for a period of no less than 30 days from the date~~
15 ~~notice of such action is published. Upon request submitted~~
16 ~~within 30 days after published notice, the department shall~~
17 ~~hold a public meeting, in the area affected, for the purpose~~
18 ~~of receiving public comment on issues related to the new~~
19 ~~source review or prevention of significant deterioration~~
20 ~~permit. If requested following notice of the department's~~
21 ~~preliminary determination, the public meeting to receive~~
22 ~~public comment shall be held prior to the scheduled~~
23 ~~certification hearing. The department shall also solicit~~
24 ~~comments from the United States Environmental Protection~~
25 ~~Agency and other affected federal agencies regarding the~~
26 ~~department's preliminary determination for any federally~~
27 ~~required new source review or prevention of significant~~
28 ~~deterioration permit. It is the intent of the Legislature that~~
29 the review, processing, and issuance of such federally
30 delegated or approved permits be closely coordinated with the
31 certification process established under this part. In the

1 event of a conflict between the certification process and
2 federally required procedures ~~contained in the state~~
3 ~~implementation plan~~, the applicable federal requirements of
4 ~~the implementation plan~~ shall control.

5 Section 32. Section 403.509, Florida Statutes, is
6 amended to read:

7 403.509 Final disposition of application.--

8 (1)(a) If the administrative law judge has granted a
9 request to cancel the certification hearing and has
10 relinquished jurisdiction to the department under the
11 provisions of s. 403.508(6), within 40 days thereafter, the
12 secretary of the department shall act upon the application by
13 written order in accordance with the terms of this act and the
14 stipulation of the parties in requesting cancellation of the
15 certification hearing.

16 (b) If the administrative law judge has not granted a
17 request to cancel the certification hearing under the
18 provisions of s. 403.508(6), within 60 days after receipt of
19 the designated administrative law judge's recommended order,
20 the board shall act upon the application by written order,
21 approving ~~certification~~ or denying certification ~~the issuance~~
22 ~~of a certificate~~, in accordance with the terms of this act,
23 and stating the reasons for issuance or denial. If
24 certification ~~the certificate~~ is denied, the board shall set
25 forth in writing the action the applicant would have to take
26 to secure the board's approval of the application.

27 (2) The issues that may be raised in any hearing
28 before the board shall be limited to those matters raised in
29 the certification proceeding before the administrative law
30 judge or raised in the recommended order. All parties, or
31

1 their representatives, or persons who appear before the board
2 shall be subject to the provisions of s. 120.66.

3 (3) In determining whether an application should be
4 approved in whole, approved with modifications or conditions,
5 or denied, the board, or secretary when applicable, shall
6 consider whether, and the extent to which, the location of the
7 electrical power plant and directly associated facilities and
8 their construction and operation will:

9 (a) Provide reasonable assurance that operational
10 safeguards are technically sufficient for the public welfare
11 and protection.

12 (b) Comply with applicable nonprocedural requirements
13 of agencies.

14 (c) Be consistent with applicable local government
15 comprehensive plans and land development regulations.

16 (d) Meet the electrical energy needs of the state in
17 an orderly and timely fashion.

18 (e) Effect a reasonable balance between the need for
19 the facility as established pursuant to s. 403.519, and the
20 impacts upon air and water quality, fish and wildlife, water
21 resources, and other natural resources of the state resulting
22 from the construction and operation of the facility.

23 (f) Minimize, through the use of reasonable and
24 available methods, the adverse effects on human health, the
25 environment, and the ecology of the land and its wildlife and
26 the ecology of state waters and their aquatic life.

27 (g) Serve and protect the broad interests of the
28 public.

29 ~~(3) Within 30 days after issuance of the~~
30 ~~certification, the department shall issue and forward to the~~
31 ~~United States Environmental Protection Agency a proposed~~

1 ~~operation permit for a major source of air pollution and must~~
2 ~~issue or deny any other license required pursuant to any~~
3 ~~federally delegated or approved permit program. The~~
4 ~~department's action on the license and its action on the~~
5 ~~proposed operation permit for a major source of air pollution~~
6 ~~shall be based upon the record and recommended order of the~~
7 ~~certification hearing. The department's actions on a federally~~
8 ~~required new source review or prevention of significant~~
9 ~~deterioration permit shall be based on the record and~~
10 ~~recommended order of the certification hearing and of any~~
11 ~~other proceeding held in connection with the application for a~~
12 ~~new source review or prevention of significant deterioration~~
13 ~~permit, on timely public comments received with respect to the~~
14 ~~application or preliminary determination for such permit, and~~
15 ~~on the provisions of the state implementation plan.~~

16 (4) The department's action on a federally required
17 new source review or prevention of significant deterioration
18 permit shall differ from the actions taken by the siting board
19 regarding the certification if the federally approved state
20 implementation plan requires such a different action to be
21 taken by the department. Nothing in this part shall be
22 construed to displace the department's authority as the final
23 permitting entity under the federally approved permit program.
24 Nothing in this part shall be construed to authorize the
25 issuance of a new source review or prevention of significant
26 deterioration permit which does not conform to the
27 requirements of the federally approved state implementation
28 plan. ~~Any final operation permit for a major source of air~~
29 ~~pollution must be issued in accordance with the provisions of~~
30 ~~s. 403.0872. Unless the federally delegated or approved permit~~
31 ~~program provides otherwise, licenses issued by the department~~

1 ~~under this subsection shall be effective for the term of the~~
2 ~~certification issued by the board. If renewal of any license~~
3 ~~issued by the department pursuant to a federally delegated or~~
4 ~~approved permit program is required, such renewal shall not~~
5 ~~affect the certification issued by the board, except as~~
6 ~~necessary to resolve inconsistencies pursuant to s.~~
7 ~~403.516(1)(a).~~

8 (5)(4) In regard to the properties and works of any
9 agency which is a party to the certification hearing, the
10 board shall have the authority to decide issues relating to
11 the use, the connection thereto, or the crossing thereof, for
12 the electrical power plant and directly associated facilities
13 ~~site~~ and to direct any such agency to execute, within 30 days
14 after the entry of certification, the necessary license or
15 easement for such use, connection, or crossing, subject only
16 to the conditions set forth in such certification.

17 ~~(6)(5) Except for the issuance of any operation permit~~
18 ~~for a major source of air pollution pursuant to s. 403.0872,~~
19 The issuance or denial of the certification by the board or
20 secretary of the department ~~and the issuance or denial of any~~
21 ~~related department license required pursuant to any federally~~
22 ~~delegated or approved permit program shall be the final~~
23 administrative action required as to that application.

24 ~~(6) All certified electrical power plants must apply~~
25 ~~for and obtain a major source air operation permit pursuant to~~
26 ~~s. 403.0872. Major source air operation permit applications~~
27 ~~for certified electrical power plants must be submitted~~
28 ~~pursuant to a schedule developed by the department. To the~~
29 ~~extent that any conflicting provision, limitation, or~~
30 ~~restriction under any rule, regulation, or ordinance imposed~~
31 ~~by any political subdivision of the state, or by any local~~

1 ~~pollution control program, was superseded during the~~
2 ~~certification process pursuant to s. 403.510(1), such rule,~~
3 ~~regulation, or ordinance shall continue to be superseded for~~
4 ~~purposes of the major source air operation permit program~~
5 ~~under s. 403.0872.~~

6 Section 33. Section 403.511, Florida Statutes, is
7 amended to read:

8 403.511 Effect of certification.--

9 (1) Subject to the conditions set forth therein, any
10 certification ~~signed by the Governor~~ shall constitute the sole
11 license of the state and any agency as to the approval of the
12 site and the construction and operation of the proposed
13 electrical power plant, except for the issuance of department
14 licenses required under any federally delegated or approved
15 permit program and except as otherwise provided in subsection
16 (4).

17 (2)(a) The certification shall authorize the licensee
18 ~~applicant~~ named therein to construct and operate the proposed
19 electrical power plant, subject only to the conditions of
20 certification set forth in such certification, and except for
21 the issuance of department licenses or permits required under
22 any federally delegated or approved permit program.

23 (b)1. Except as provided in subsection (4), the
24 certification may include conditions which constitute
25 variances, exemptions, or exceptions from nonprocedural
26 requirements of the department or any agency which were
27 expressly considered during the proceeding, including, but not
28 limited to, any site specific criteria, standards, or
29 limitations under local land use and zoning approvals which
30 affect the proposed electrical power plant or its site, unless
31 waived by the agency ~~as provided below~~ and which otherwise

1 would be applicable to the construction and operation of the
2 proposed electrical power plant.

3 2. No variance, exemption, exception, or other relief
4 shall be granted from a state statute or rule for the
5 protection of endangered or threatened species, aquatic
6 preserves, Outstanding National Resource Waters, or
7 Outstanding Florida Waters or for the disposal of hazardous
8 waste, except to the extent authorized by the applicable
9 statute or rule or except upon a finding in the certification
10 order ~~by the siting board~~ that the public interests set forth
11 in s. 403.509(3) ~~403.502~~ in certifying the electrical power
12 plant at the site proposed by the applicant overrides the
13 public interest protected by the statute or rule from which
14 relief is sought. ~~Each party shall notify the applicant and~~
15 ~~other parties at least 60 days prior to the certification~~
16 ~~hearing of any nonprocedural requirements not specifically~~
17 ~~listed in the application from which a variance, exemption,~~
18 ~~exception, or other relief is necessary in order for the board~~
19 ~~to certify any electrical power plant proposed for~~
20 ~~certification. Failure of such notification by an agency shall~~
21 ~~be treated as a waiver from nonprocedural requirements of the~~
22 ~~department or any other agency. However, no variance shall be~~
23 ~~granted from standards or regulations of the department~~
24 ~~applicable under any federally delegated or approved permit~~
25 ~~program, except as expressly allowed in such program.~~

26 (3) The certification and any order on land use and
27 zoning issued under this act shall be in lieu of any license,
28 permit, certificate, or similar document required by any
29 state, regional, or local agency pursuant to, but not limited
30 to, chapter 125, chapter 161, chapter 163, chapter 166,
31 chapter 186, chapter 253, chapter 298, chapter 370, chapter

1 373, chapter 376, chapter 380, chapter 381, chapter 387,
2 chapter 403, except for permits issued pursuant to any
3 federally delegated or approved permit program ~~s. 403.0885~~ and
4 except as provided in ~~s. 403.509(3) and (6)~~, chapter 404, or
5 the Florida Transportation Code, or 33 U.S.C. s. 1341.

6 (4) This act shall not affect in any way the
7 ratemaking powers of the Public Service Commission under
8 chapter 366; nor shall this act in any way affect the right of
9 any local government to charge appropriate fees or require
10 that construction be in compliance with applicable building
11 construction codes.

12 (5)(a) An electrical power plant certified pursuant to
13 this act shall comply with rules adopted by the department
14 subsequent to the issuance of the certification which
15 prescribe new or stricter criteria, to the extent that the
16 rules are applicable to electrical power plants. Except when
17 express variances, exceptions, exemptions, or other relief
18 have been granted, subsequently adopted rules which prescribe
19 new or stricter criteria shall operate as automatic
20 modifications to certifications.

21 (b) Upon written notification to the department, any
22 holder of a certification issued pursuant to this act may
23 choose to operate the certified electrical power plant in
24 compliance with any rule subsequently adopted by the
25 department which prescribes criteria more lenient than the
26 criteria required by the terms and conditions in the
27 certification which are not site-specific.

28 (c) No term or condition of certification shall be
29 interpreted to preclude the postcertification exercise by any
30 party of whatever procedural rights it may have under chapter
31

1 120, including those related to rulemaking proceedings. This
2 subsection shall apply to previously issued certifications.

3 (6) No term or condition of a site certification shall
4 be interpreted to supersede or control the provisions of a
5 final operation permit for a major source of air pollution
6 issued by the department pursuant to s. 403.0872 to ~~a such~~
7 facility certified under this part.

8 (7) Pursuant to s. 380.23, electrical power plants are
9 subject to the federal coastal consistency review program.

10 Issuance of certification shall constitute the state's
11 certification of coastal zone consistency.

12 Section 34. Section 403.5112, Florida Statutes, is
13 created to read:

14 403.5112 Filing of notice of certified corridor
15 route.--

16 (1) Within 60 days after certification of a directly
17 associated linear facility pursuant to this act, the applicant
18 shall file, in accordance with s. 28.222, with the department
19 and the clerk of the circuit court for each county through
20 which the corridor will pass, a notice of the certified route.

21 (2) The notice shall consist of maps or aerial
22 photographs in the scale of 1:24,000 which clearly show the
23 location of the certified route and shall state that the
24 certification of the corridor will result in the acquisition
25 of rights-of-way within the corridor. Each clerk shall record
26 the filing in the official record of the county for the
27 duration of the certification or until such time as the
28 applicant certifies to the department and the clerk that all
29 lands required for the transmission line rights-of-way within
30 the corridor have been acquired within such county, whichever
31 is sooner.

1 Section 35. Section 403.5113, Florida Statutes, is
2 created to read:

3 403.5113 Postcertification amendments.--

4 (1) If, subsequent to certification by the board, a
5 licensee proposes any material change to the application and
6 revisions or amendments thereto, as certified, the licensee
7 shall submit a written request for amendment and a description
8 of the proposed change to the application to the department.
9 Within 30 days after the receipt of the request for the
10 amendment, the department shall determine whether the proposed
11 change to the application requires a modification of the
12 conditions of certification.

13 (2) If the department concludes that the change would
14 not require a modification of the conditions of certification,
15 the department shall provide written notification of the
16 approval of the proposed amendment to the licensee, all
17 agencies, and all other parties.

18 (3) If the department concludes that the change would
19 require a modification of the conditions of certification, the
20 department shall provide written notification to the licensee
21 that the proposed change to the application requires a request
22 for modification pursuant to s. 403.516.

23 (4) Postcertification submittals filed by the licensee
24 with one or more agencies are for the purpose of monitoring
25 for compliance with the issued certification and must be
26 reviewed by the agencies on an expedited and priority basis
27 because each facility certified under this act is a critical
28 infrastructure facility. In no event shall a postcertification
29 review be completed in more than 90 days after complete
30 information is submitted to the reviewing agencies.

31

1 Section 36. Section 403.5115, Florida Statutes, is
2 amended to read:

3 403.5115 Public notice; costs of proceeding.--

4 (1) The following notices are to be published by the
5 applicant:

6 (a) Notice ~~A notice~~ of the filing of a notice of
7 intent under s. 403.5063, which shall be published within 21
8 days after the filing of the notice. The notice shall be
9 published as specified by subsection (2), except that the
10 newspaper notice shall be one-fourth page in size in a
11 standard size newspaper or one-half page in size in a tabloid
12 size newspaper.

13 (b) Notice ~~A notice~~ of filing of the application,
14 which shall include a description of the proceedings required
15 by this act, within 21 days after the date of the application
16 filing be published as specified in subsection (2), within 15
17 days after the application has been determined complete. Such
18 notice shall give notice of the provisions of s. 403.511(1)
19 and (2) ~~and that the application constitutes a request for a~~
20 ~~federally required new source review or prevention of~~
21 ~~significant deterioration permit.~~

22 (c) Notice of the land use determination made pursuant
23 to s. 403.50665(1) within 21 days after the determination is
24 filed.

25 (d) Notice of the land use hearing, which shall be
26 published as specified in subsection (2), no later than 15 ~~45~~
27 days before the hearing.

28 (e) ~~(d)~~ Notice of the certification hearing and notice
29 of the deadline for filing notice of intent to be a party,
30 which shall be published as specified in subsection (2), at
31

1 least 65 days before the date set for the certification ~~no~~
2 ~~later than 45 days before the hearing.~~

3 (f) Notice of the cancellation of the certification
4 hearing, if applicable, no later than 3 days before the date
5 of the originally scheduled certification hearing.

6 (g)(e) Notice of modification when required by the
7 department, based on whether the requested modification of
8 certification will significantly increase impacts to the
9 environment or the public. Such notice shall be published as
10 specified under subsection (2):

11 1. Within 21 days after receipt of a request for
12 modification, ~~except that~~ The newspaper notice shall be of a
13 size as directed by the department commensurate with the scope
14 of the modification.

15 2. If a hearing is to be conducted in response to the
16 request for modification, then notice shall be published no
17 later than 30 days before the hearing ~~provided as specified in~~
18 ~~paragraph (d).~~

19 (h)(f) Notice of a supplemental application, which
20 shall be published as specified in paragraph (b) and
21 subsection (2). follows:

22 ~~1. Notice of receipt of the supplemental application~~
23 ~~shall be published as specified in paragraph (b).~~

24 ~~2. Notice of the certification hearing shall be~~
25 ~~published as specified in paragraph (d).~~

26 (i) Notice of existing site certification pursuant to
27 s. 403.5175. Notices shall be published as specified in
28 paragraph (b) and subsection (2).

29 (2) Notices provided by the applicant shall be
30 published in newspapers of general circulation within the
31 county or counties in which the proposed electrical power

1 | plant will be located. The newspaper notices shall be at least
2 | one-half page in size in a standard size newspaper or a full
3 | page in a tabloid size newspaper ~~and published in a section of~~
4 | ~~the newspaper other than the legal notices section.~~ These
5 | notices shall include a map generally depicting the project
6 | and all associated facilities corridors. A newspaper of
7 | general circulation shall be the newspaper which has the
8 | largest daily circulation in that county and has its principal
9 | office in that county. If the newspaper with the largest daily
10 | circulation has its principal office outside the county, the
11 | notices shall appear in both the newspaper having the largest
12 | circulation in that county and in a newspaper authorized to
13 | publish legal notices in that county.

14 | (3) All notices published by the applicant shall be
15 | paid for by the applicant and shall be in addition to the
16 | application fee.

17 | (4) The department shall arrange for publication of
18 | the following notices in the manner specified by chapter 120
19 | and provide copies of those notices to any persons who have
20 | requested to be placed on the departmental mailing list for
21 | this purpose:

22 | (a) ~~Notice Publish in the Florida Administrative~~
23 | ~~Weekly notices~~ of the filing of the notice of intent within 15
24 | days after receipt of the notice.†

25 | (b) Notice of the filing of the application, no later
26 | than 21 days after the application filing.†

27 | (c) Notice of the land use determination made pursuant
28 | to s. 403.50665(1) within 21 days after the determination is
29 | filed.

30 |
31 |

1 (d) Notice of the land use hearing before the
2 administrative law judge, if applicable, no later than 15 days
3 before the hearing.†

4 (e) Notice of the land use hearing before the board,
5 if applicable.

6 (f) Notice of the certification hearing at least 45
7 days before the date set for the certification hearing.†

8 (g) Notice of the cancellation of the certification
9 hearing, if applicable, no later than 3 days prior to the date
10 of the originally scheduled certification hearing.

11 (h) Notice of the hearing before the board, if
12 applicable.†

13 (i) Notice and of stipulations, proposed agency
14 action, or petitions for modification.†~~and~~

15 ~~(b) Provide copies of those notices to any persons who~~
16 ~~have requested to be placed on the departmental mailing list~~
17 ~~for this purpose.~~

18 ~~(5) The applicant shall pay those expenses and costs~~
19 ~~associated with the conduct of the hearings and the recording~~
20 ~~and transcription of the proceedings.~~

21 Section 37. Section 403.513, Florida Statutes, is
22 amended to read:

23 403.513 Review.--Proceedings under this act shall be
24 subject to judicial review as provided in chapter 120. When
25 possible, separate appeals of the certification order issued
26 by the board and of any department permit issued pursuant to a
27 federally delegated or approved permit program may ~~shall~~ be
28 consolidated for purposes of judicial review.

29 Section 38. Section 403.516, Florida Statutes, is
30 amended to read:

31 403.516 Modification of certification.--

1 (1) A certification may be modified after issuance in
2 any one of the following ways:

3 (a) The board may delegate to the department the
4 authority to modify specific conditions in the certification.

5 **(b)1.** The department may modify specific conditions of
6 a site certification which are inconsistent with the terms of
7 any federally delegated or approved final air pollution
8 ~~operation permit~~ for the certified electrical power plant
9 ~~issued by the United States Environmental Protection Agency~~
10 ~~under the terms of 42 U.S.C. s. 7661d.~~

11 **2.** Such modification may be made without further
12 notice if the matter has been previously noticed under the
13 requirements for any federally delegated or approved permit
14 program.

15 **(c)** The licensee may file a petition for modification
16 with the department, or the department may initiate the
17 modification upon its own initiative.

18 **1.** A petition for modification must set forth:

19 **a.** The proposed modification.

20 **b.** The factual reasons asserted for the modification.

21 **c.** The anticipated environmental effects of the
22 proposed modification.

23 **2.(b)** The department may modify the terms and
24 conditions of the certification if no party to the
25 certification hearing objects in writing to such modification
26 within 45 days after notice by mail to such party's last
27 address of record, and if no other person whose substantial
28 interests will be affected by the modification objects in
29 writing within 30 days after issuance of public notice.

30 **3.** If objections are raised or the department denies
31 the request, the applicant or department may file a request

1 ~~petition for a hearing on the modification with the~~
 2 ~~department. Such request shall be handled pursuant to chapter~~
 3 ~~120 paragraph (c).~~

4 ~~(c) A petition for modification may be filed by the~~
 5 ~~applicant or the department setting forth:~~

- 6 ~~1. The proposed modification,~~
- 7 ~~2. The factual reasons asserted for the modification,~~
- 8 ~~and~~
- 9 ~~3. The anticipated effects of the proposed~~
 10 ~~modification on the applicant, the public, and the~~
 11 ~~environment.~~

12
 13 ~~The petition for modification shall be filed with the~~
 14 ~~department and the Division of Administrative Hearings.~~

15 4. Requests referred to the Division of Administrative
 16 Hearings shall be disposed of in the same manner as an
 17 application, but with time periods established by the
 18 administrative law judge commensurate with the significance of
 19 the modification requested.

20 (d) As required by s. 403.511(5).

21 ~~(2) Petitions filed pursuant to paragraph (1)(c) shall~~
 22 ~~be disposed of in the same manner as an application, but with~~
 23 ~~time periods established by the administrative law judge~~
 24 ~~commensurate with the significance of the modification~~
 25 ~~requested.~~

26 ~~(2)(3)~~ Any agreement or modification under this
 27 section must be in accordance with the terms of this act. No
 28 modification to a certification shall be granted that
 29 constitutes a variance from standards or regulations of the
 30 department applicable under any federally delegated or
 31

1 approved permit program, except as expressly allowed in such
2 program.

3 Section 39. Section 403.517, Florida Statutes, is
4 amended to read:

5 403.517 Supplemental applications for sites certified
6 for ultimate site capacity.--

7 (1)(a) Supplemental ~~The department shall adopt rules~~
8 ~~governing the processing of supplemental~~ applications may be
9 submitted for certification of the construction and operation
10 of electrical power plants to be located at sites which have
11 been previously certified for an ultimate site capacity
12 pursuant to this act. Supplemental applications shall be
13 limited to electrical power plants using the fuel type
14 previously certified for that site. Such applications shall
15 include all new directly associated facilities that support
16 the construction and operation of the electrical power plant.
17 ~~The rules adopted pursuant to this section shall include~~
18 ~~provisions for:~~

19 1. ~~Prompt appointment of a designated administrative~~
20 ~~law judge.~~

21 2. ~~The contents of the supplemental application.~~

22 3. ~~Resolution of disputes as to the completeness and~~
23 ~~sufficiency of supplemental applications by the designated~~
24 ~~administrative law judge.~~

25 4. ~~Public notice of the filing of the supplemental~~
26 ~~applications.~~

27 5. ~~Time limits for prompt processing of supplemental~~
28 ~~applications.~~

29 6. ~~Final disposition by the board within 215 days of~~
30 ~~the filing of a complete supplemental application.~~

31

1 (b) The review shall use the same procedural steps and
2 notices as for an initial application.

3 (c) The time limits for the processing of a complete
4 supplemental application shall be designated by the department
5 commensurate with the scope of the supplemental application,
6 but shall not exceed any time limitation governing the review
7 of initial applications for site certification pursuant to
8 this act, it being the legislative intent to provide shorter
9 time limitations for the processing of supplemental
10 applications for electrical power plants to be constructed and
11 operated at sites which have been previously certified for an
12 ultimate site capacity.

13 ~~(d)(e)~~ Any time limitation in this section or in rules
14 adopted pursuant to this section may be altered pursuant to s.
15 403.5095 ~~by the designated administrative law judge upon~~
16 ~~stipulation between the department and the applicant, unless~~
17 ~~objected to by any party within 5 days after notice, or for~~
18 ~~good cause shown by any party. The parties to the proceeding~~
19 ~~shall adhere to the provisions of chapter 120 and this act in~~
20 ~~considering and processing such supplemental applications.~~

21 ~~(2) Supplemental applications shall be reviewed as~~
22 ~~provided in ss. 403.507 403.511, except that the time limits~~
23 ~~provided in this section shall apply to such supplemental~~
24 ~~applications.~~

25 ~~(3)~~ The land use and zoning consistency determination
26 of s. 403.50665 ~~hearing requirements of s. 403.508(1) and (2)~~
27 shall not be applicable to the processing of supplemental
28 applications pursuant to this section so long as:

29 (a) The previously certified ultimate site capacity is
30 not exceeded; and

31

1 (b) The lands required for the construction or
2 operation of the electrical power plant which is the subject
3 of the supplemental application are within the boundaries of
4 the previously certified site.

5 ~~(4) For the purposes of this act, the term "ultimate~~
6 ~~site capacity" means the maximum generating capacity for a~~
7 ~~site as certified by the board.~~

8 Section 40. Section 403.5175, Florida Statutes, is
9 amended to read:

10 403.5175 Existing electrical power plant site
11 certification.--

12 (1) An electric utility that owns or operates an
13 existing electrical power plant as defined in s. 403.503(12)
14 may apply for certification of an existing power plant and its
15 site in order to obtain all agency licenses necessary to
16 ensure ~~assure~~ compliance with federal or state environmental
17 laws and regulation using the centrally coordinated, one-stop
18 licensing process established by this part. An application for
19 site certification under this section must be in the form
20 prescribed by department rule. Applications must be reviewed
21 and processed using the same procedural steps and notices as
22 for an application for a new facility in accordance with ss.
23 ~~403.5064-403.5115~~, except that a determination of need by the
24 Public Service Commission is not required.

25 (2) An application for certification under this
26 section must include:

27 (a) A description of the site and existing power plant
28 installations;

29 (b) A description of all proposed changes or
30 alterations to the site or electrical power plant, including
31

1 all new associated facilities that are the subject of the
2 application;

3 (c) A description of the environmental and other
4 impacts caused by the existing utilization of the site and
5 directly associated facilities, and the operation of the
6 electrical power plant that is the subject of the application,
7 and of the environmental and other benefits, if any, to be
8 realized as a result of the proposed changes or alterations if
9 certification is approved and such other information as is
10 necessary for the reviewing agencies to evaluate the proposed
11 changes and the expected impacts;

12 (d) The justification for the proposed changes or
13 alterations;

14 (e) Copies of all existing permits, licenses, and
15 compliance plans authorizing utilization of the site and
16 directly associated facilities or operation of the electrical
17 power plant that is the subject of the application.

18 (3) The land use and zoning determination hearing
19 requirements of s. 403.50665 ~~s. 403.508(1) and (2)~~ do not
20 apply to an application under this section if the applicant
21 does not propose to expand the boundaries of the existing
22 site. If the applicant proposes to expand the boundaries of
23 the existing site to accommodate portions of the plant or
24 associated facilities, a land use and zoning determination
25 shall be made ~~hearing must be held~~ as specified in s.
26 403.50665 ~~s. 403.508(1) and (2)~~; provided, however, that the
27 sole issue for determination ~~through the land use hearing~~ is
28 whether the proposed site expansion is consistent and in
29 compliance with the existing land use plans and zoning
30 ordinances.

31

1 (4) In considering whether an application submitted
 2 under this section should be approved in whole, approved with
 3 appropriate conditions, or denied, the board shall consider
 4 whether, and to the extent to which the proposed changes to
 5 the electrical power plant and its continued operation under
 6 certification will:

7 (a) Comply with the provisions of s. 403.509(3).
 8 ~~applicable nonprocedural requirements of agencies;~~

9 (b) Result in environmental or other benefits compared
 10 to current utilization of the site and operations of the
 11 electrical power plant if the proposed changes or alterations
 12 are undertaken.;

13 ~~(c) Minimize, through the use of reasonable and
 14 available methods, the adverse effects on human health, the
 15 environment, and the ecology of the land and its wildlife and
 16 the ecology of state waters and their aquatic life; and~~

17 ~~(d) Serve and protect the broad interests of the
 18 public.~~

19 (5) An applicant's failure to receive approval for
 20 certification of an existing site or an electrical power plant
 21 under this section is without prejudice to continued operation
 22 of the electrical power plant or site under existing agency
 23 licenses.

24 Section 41. Section 403.518, Florida Statutes, is
 25 amended to read:

26 403.518 Fees; disposition.--

27 ~~(1)~~ The department shall charge the applicant the
 28 following fees, as appropriate, which, unless otherwise
 29 specified, shall be paid into the Florida Permit Fee Trust
 30 Fund:
 31

1 ~~(1)(a)~~ A fee for a notice of intent pursuant to s.
2 403.5063, in the amount of \$2,500, to be submitted to the
3 department at the time of filing of a notice of intent. The
4 notice-of-intent fee shall be used and disbursed in the same
5 manner as the application fee.

6 ~~(2)(b)~~ An application fee, which shall not exceed
7 \$200,000. The fee shall be fixed by rule on a sliding scale
8 related to the size, type, ultimate site capacity, or increase
9 in electrical generating capacity proposed by the application,
10 ~~or the number and size of local governments in whose~~
11 ~~jurisdiction the electrical power plant is located.~~

12 ~~(a)1.~~ Sixty percent of the fee shall go to the
13 department to cover any costs associated with coordinating the
14 review~~reviewing~~ and acting upon the application, to cover any
15 field services associated with monitoring construction and
16 operation of the facility, and to cover the costs of the
17 public notices published by the department.

18 ~~(b)2.~~ The following percentages ~~Twenty percent of the~~
19 ~~fee or \$25,000, whichever is greater,~~ shall be transferred to
20 the Administrative Trust Fund of the Division of
21 Administrative Hearings of the Department of Management
22 Services:-

23 1. Five percent to compensate expenses from the
24 initial exercise of duties associated with the filing of an
25 application.

26 2. An additional 5 percent if a land use hearing is
27 held pursuant to s. 403.508.

28 3. An additional 10 percent if a certification hearing
29 is held pursuant to s. 403.508.

30 ~~(c)1.3.~~ Upon written request with proper itemized
31 accounting within 90 days after final agency action by the

1 board or withdrawal of the application, the agencies that
2 prepared reports pursuant to s. 403.507 or participated in a
3 hearing pursuant to s. 403.508 may submit a written request to
4 the department for reimbursement of expenses incurred during
5 the certification proceedings. The request shall contain an
6 accounting of expenses incurred which may include time spent
7 reviewing the application, the department shall reimburse the
8 Department of Community Affairs, the Fish and Wildlife
9 Conservation Commission, and any water management district
10 created pursuant to chapter 373, regional planning council,
11 and local government in the jurisdiction of which the proposed
12 electrical power plant is to be located, and any other agency
13 from which the department requests special studies pursuant to
14 s. 403.507(2)(a)7. Such reimbursement shall be authorized for
15 the preparation of any studies required of the agencies by
16 this act, and for agency travel and per diem to attend any
17 hearing held pursuant to this act, and for any agency or local
18 government's provision of notice of public meetings or
19 hearings required as a result of the application for
20 certification governments to participate in the proceedings.
21 The department shall review the request and verify that the
22 expenses are valid. Valid expenses shall be reimbursed;
23 however, in the event the amount of funds available for
24 reimbursement allocation is insufficient to provide for full
25 compensation complete reimbursement to the agencies requesting
26 reimbursement, reimbursement shall be on a prorated basis.

27 2. If the application review is held in abeyance for
28 more than 1 year, the agencies may submit a request for
29 reimbursement.

30 (d)4- If any sums are remaining, the department shall
31 retain them for its use in the same manner as is otherwise

1 authorized by this act; provided, however, that if the
2 certification application is withdrawn, the remaining sums
3 shall be refunded to the applicant within 90 days after
4 withdrawal.

5 ~~(3)(a)(c)~~ A certification modification fee, which
6 shall not exceed \$30,000. The department shall establish rules
7 for determining such a fee based on the equipment redesign,
8 change in site size, type, increase in generating capacity
9 proposed, or change in an associated linear facility location.

10 (b) The fee shall be submitted to the department with
11 a ~~formal~~ petition for modification ~~to the department~~ pursuant
12 to s. 403.516. This fee shall be established, disbursed, and
13 processed in the same manner as the application fee in
14 subsection (2) paragraph (b), except that the Division of
15 Administrative Hearings shall not receive a portion of the fee
16 unless the petition for certification modification is referred
17 to the Division of Administrative Hearings for hearing. If the
18 petition is so referred, only \$10,000 of the fee shall be
19 transferred to the Administrative Trust Fund of the Division
20 of Administrative Hearings of the Department of Management
21 Services. ~~The fee for a modification by agreement filed~~
22 ~~pursuant to s. 403.516(1)(b) shall be \$10,000 to be paid upon~~
23 ~~the filing of the request for modification. Any sums remaining~~
24 ~~after payment of authorized costs shall be refunded to the~~
25 ~~applicant within 90 days of issuance or denial of the~~
26 ~~modification or withdrawal of the request for modification.~~

27 ~~(4)(d)~~ A supplemental application fee, not to exceed
28 \$75,000, to cover all reasonable expenses and costs of the
29 review, processing, and proceedings of a supplemental
30 application. This fee shall be established, disbursed, and
31 processed in the same manner as the certification application

1 fee in subsection (2) paragraph (b), ~~except that only \$20,000~~
2 ~~of the fee shall be transferred to the Administrative Trust~~
3 ~~Fund of the Division of Administrative Hearings of the~~
4 ~~Department of Management Services.~~

5 (5)(e) An existing site certification application fee,
6 not to exceed \$200,000, to cover all reasonable costs and
7 expenses of the review processing and proceedings for
8 certification of an existing power plant site under s.
9 403.5175. This fee must be established, disbursed, and
10 processed in the same manner as the certification application
11 fee in subsection (2) paragraph (b).

12 ~~(2) Effective upon the date commercial operation~~
13 ~~begins, the operator of an electrical power plant certified~~
14 ~~under this part is required to pay to the department an annual~~
15 ~~operation license fee as specified in s. 403.0872(11) to be~~
16 ~~deposited in the Air Pollution Control Trust Fund.~~

17 Section 42. Any application for electrical power plant
18 certification filed pursuant to ss. 403.501-403.518, Florida
19 Statutes, shall be processed under the provisions of the law
20 applicable at the time the application was filed, except that
21 the provisions relating to cancellation of the certification
22 hearing under s. 403.508(6), Florida Statutes, the provisions
23 relating to the final disposition of the application and
24 issuance of the written order by the secretary under s.
25 403.509(1)(a), Florida Statutes, and notice of the
26 cancellation of the certification hearing under s. 403.5115,
27 Florida Statutes, may apply to any application for electrical
28 power plant certification.

29 Section 43. Section 403.519, Florida Statutes, is
30 amended to read:

31 403.519 Exclusive forum for determination of need.--

1 (1) On request by an applicant or on its own motion,
2 the commission shall begin a proceeding to determine the need
3 for an electrical power plant subject to the Florida
4 Electrical Power Plant Siting Act.

5 (2) The applicant ~~commission~~ shall publish a notice of
6 the proceeding in a newspaper of general circulation in each
7 county in which the proposed electrical power plant will be
8 located. The notice shall be at least one-quarter of a page
9 and published at least 21 ~~45~~ days prior to the scheduled date
10 for the proceeding. The commission shall publish notice of the
11 proceeding in the manner specified by chapter 120 at least 21
12 days prior to the scheduled date for the proceeding.

13 (3) The commission shall be the sole forum for the
14 determination of this matter, which accordingly shall not be
15 raised in any other forum or in the review of proceedings in
16 such other forum. In making its determination, the commission
17 shall take into account the need for electric system
18 reliability and integrity, the need for adequate electricity
19 at a reasonable cost, the need for fuel diversity and supply
20 reliability, and whether the proposed plant is the most
21 cost-effective alternative available. The commission shall
22 also expressly consider the conservation measures taken by or
23 reasonably available to the applicant or its members which
24 might mitigate the need for the proposed plant and other
25 matters within its jurisdiction which it deems relevant. The
26 commission's determination of need for an electrical power
27 plant shall create a presumption of public need and necessity
28 and shall serve as the commission's report required by s.
29 403.507(4)~~403.507(2)(a)~~2. An order entered pursuant to this
30 section constitutes final agency action.

31

1 (4) In making its determination on a proposed
2 electrical power plant using nuclear materials as fuel, the
3 commission shall hold a hearing within 90 days after the
4 filing of the petition to determine need and shall issue an
5 order granting or denying the petition within 135 days after
6 the date of the filing of the petition. The commission shall
7 be the sole forum for the determination of this matter and the
8 issues addressed in the petition, which accordingly shall not
9 be reviewed in any other forum, or in the review of
10 proceedings in such other forum. In making its determination
11 to either grant or deny the petition, the commission shall
12 consider the need for electric system reliability and
13 integrity, including fuel diversity, the need for base-load
14 generating capacity, and the need for adequate electricity at
15 a reasonable cost.

16 (a) The applicant's petition shall include:

17 1. A description of the need for the generation
18 capacity.

19 2. A description of how the proposed nuclear power
20 plant will enhance the reliability of electric power
21 production within the state by improving the balance of power
22 plant fuel diversity and reducing Florida's dependence on fuel
23 oil and natural gas.

24 3. A description of and a nonbinding estimate of the
25 cost of the nuclear power plant.

26 4. The annualized base revenue requirement for the
27 first 12 months of operation of the nuclear power plant.

28 5. Information on whether there were any discussions
29 with any electric utilities regarding ownership of a portion
30 of the plant by such electric utilities.

31

1 (b) In making its determination, the commission shall
2 take into account matters within its jurisdiction, which it
3 deems relevant, including whether the nuclear power plant
4 will:

5 1. Provide needed base-load capacity.

6 2. Enhance the reliability of electric power
7 production within the state by improving the balance of power
8 plant fuel diversity and reducing Florida's dependence on fuel
9 oil and natural gas.

10 3. Provide the most cost-effective source of power,
11 taking into account the need to improve the balance of fuel
12 diversity, reduce Florida's dependence on fuel oil and natural
13 gas, reduce air emission compliance costs, and contribute to
14 the long-term stability and reliability of the electric grid.

15 (c) No provision of rule 25-22.082, Florida
16 Administrative Code, shall be applicable to a nuclear power
17 plant sited under this act, including provisions for cost
18 recovery, and an applicant shall not otherwise be required to
19 secure competitive proposals for power supply prior to making
20 application under this act or receiving a determination of
21 need from the commission.

22 (d) The commission's determination of need for a
23 nuclear power plant shall create a presumption of public need
24 and necessity and shall serve as the commission's report
25 required by s. 403.507(4)(a). An order entered pursuant to
26 this section constitutes final agency action. Any petition for
27 reconsideration of a final order on a petition for need
28 determination shall be filed within 5 days after the date of
29 such order. The commission's final order, including any order
30 on reconsideration, shall be reviewable on appeal in the
31 Florida Supreme Court. Inasmuch as delay in the determination

1 of need will delay siting of a nuclear power plant or diminish
2 the opportunity for savings to customers under the federal
3 Energy Policy Act of 2005, the Supreme Court shall proceed to
4 hear and determine the action as expeditiously as practicable
5 and give the action precedence over matters not accorded
6 similar precedence by law.

7 (e) After a petition for determination of need for a
8 nuclear power plant has been granted, the right of a utility
9 to recover any costs incurred prior to commercial operation,
10 including, but not limited to, costs associated with the
11 siting, design, licensing, or construction of the plant, shall
12 not be subject to challenge unless and only to the extent the
13 commission finds, based on a preponderance of the evidence
14 adduced at a hearing before the commission under s. 120.57,
15 that certain costs were imprudently incurred. Proceeding with
16 the construction of the nuclear power plant following an order
17 by the commission approving the need for the nuclear power
18 plant under this act shall not constitute or be evidence of
19 imprudence. Imprudence shall not include any cost increases
20 due to events beyond the utility's control. Further, a
21 utility's right to recover costs associated with a nuclear
22 power plant may not be raised in any other forum or in the
23 review of proceedings in such other forum. Costs incurred
24 prior to commercial operation shall be recovered pursuant to
25 chapter 366.

26 Section 44. Section 366.93, Florida Statutes, is
27 created to read:

28 366.93 Cost recovery for the siting, design,
29 licensing, and construction of nuclear power plants.--

30 (1) As used in this section, the term:
31

1 (a) "Cost" includes, but is not limited to, all
2 capital investments, including rate of return, any applicable
3 taxes, and all expenses, including operation and maintenance
4 expenses, related to or resulting from the siting, licensing,
5 design, construction, or operation of the nuclear power plant.

6 (b) "Electric utility" or "utility" has the same
7 meaning as that provided in s. 366.8255(1)(a).

8 (c) "Nuclear power plant" or "plant" is an electrical
9 power plant as defined in s. 403.503(12) that uses nuclear
10 materials for fuel.

11 (d) "Preconstruction" is that period of time after a
12 site has been selected through and including the date the
13 utility completes site clearing work. Preconstruction costs
14 shall be afforded deferred accounting treatment and shall
15 accrue a carrying charge equal to the utility's allowance for
16 funds during construction (AFUDC) rate until recovered in
17 rates.

18 (2) Within 6 months after the enactment of this act,
19 the commission shall establish, by rule, alternative cost
20 recovery mechanisms for the recovery of costs incurred in the
21 siting, design, licensing, and construction of a nuclear power
22 plant. Such mechanisms shall be designed to promote utility
23 investment in nuclear power plants and allow for the recovery
24 in rates all prudently incurred costs, and shall include, but
25 are not limited to:

26 (a) Recovery through the capacity cost recovery clause
27 of any preconstruction costs.

28 (b) Recovery through an incremental increase in the
29 utility's capacity cost recovery clause rates of the carrying
30 costs on the utility's projected construction cost balance
31 associated with the nuclear power plant. To encourage

1 investment and provide certainty, for nuclear power plant need
2 petitions submitted on or before December 31, 2010, associated
3 carrying costs shall be equal to the pretax AFUDC in effect
4 upon this act becoming law. For nuclear power plants for which
5 need petitions are submitted after December 31, 2010, the
6 utility's existing pretax AFUDC rate is presumed to be
7 appropriate unless determined otherwise by the commission in
8 the determination of need for the nuclear power plant.

9 (3) After a petition for determination of need is
10 granted, a utility may petition the commission for cost
11 recovery as permitted by this section and commission rules.

12 (4) When the nuclear power plant is placed in
13 commercial service, the utility shall be allowed to increase
14 its base rate charges by the projected annual revenue
15 requirements of the nuclear power plant based on the
16 jurisdictional annual revenue requirements of the plant for
17 the first 12 months of operation. The rate of return on
18 capital investments shall be calculated using the utility's
19 rate of return last approved by the commission prior to the
20 commercial inservice date of the nuclear power plant. If any
21 existing generating plant is retired as a result of operation
22 of the nuclear power plant, the commission shall allow for the
23 recovery, through an increase in base rate charges, of the net
24 book value of the retired plant over a period not to exceed 5
25 years.

26 (5) The utility shall report to the commission
27 annually the budgeted and actual costs as compared to the
28 estimated inservice cost of the nuclear power plant provided
29 by the utility pursuant to s. 403.519(4), until the commercial
30 operation of the nuclear power plant. The utility shall
31 provide such information on an annual basis following the

1 final order by the commission approving the determination of
2 need for the nuclear power plant, with the understanding that
3 some costs may be higher than estimated and other costs may be
4 lower.

5 (6) In the event the utility elects not to complete or
6 is precluded from completing construction of the nuclear power
7 plant, the utility shall be allowed to recover all prudent
8 preconstruction and construction costs incurred following the
9 commission's issuance of a final order granting a
10 determination of need for the nuclear power plant. The utility
11 shall recover such costs through the capacity cost recovery
12 clause over a period equal to the period during which the
13 costs were incurred or 5 years, whichever is greater. The
14 unrecovered balance during the recovery period will accrue
15 interest at the utility's weighted average cost of capital as
16 reported in the commission's earnings surveillance reporting
17 requirement for the prior year.

18 Section 45. Section 403.52, Florida Statutes, is
19 amended to read:

20 403.52 Short title.--Sections 403.52-403.5365 may be
21 cited as the "Florida Electric Transmission Line Siting Act."

22 Section 46. Section 403.521, Florida Statutes, is
23 amended to read:

24 403.521 Legislative intent.--The legislative intent of
25 this act is to establish a centralized and coordinated
26 licensing~~permitting~~ process for the location of electric
27 transmission line corridors and the construction, operation,
28 and maintenance of electric transmission lines, which are
29 critical infrastructure facilities. This necessarily involves
30 several broad interests of the public addressed through the
31 subject matter jurisdiction of several agencies. The

1 Legislature recognizes that electric transmission lines will
 2 have an effect upon the reliability of the electric power
 3 system, the environment, land use, and the welfare of the
 4 population. Recognizing the need to ensure electric power
 5 system reliability and integrity, and in order to meet
 6 electric ~~electrical~~ energy needs in an orderly and timely
 7 fashion, the centralized and coordinated licensing ~~permitting~~
 8 process established by this act is intended to further the
 9 legislative goal of ensuring through available and reasonable
 10 methods that the location of transmission line corridors and
 11 the construction, operation, and maintenance of electric
 12 transmission lines produce minimal adverse effects on the
 13 environment and public health, safety, and welfare ~~while not~~
 14 ~~unduly conflicting with the goals established by the~~
 15 ~~applicable local comprehensive plan.~~ It is the intent of this
 16 act to fully balance the need for transmission lines with the
 17 broad interests of the public in order to effect a reasonable
 18 balance between the need for the facility as a means of
 19 providing reliable, economical, and efficient electric
 20 ~~abundant low cost electrical~~ energy and the impact on the
 21 public and the environment resulting from the location of the
 22 transmission line corridor and the construction, operation,
 23 and maintenance of the transmission lines. The Legislature
 24 intends that the provisions of chapter 120 apply to this act
 25 and to proceedings under ~~pursuant to~~ it except as otherwise
 26 expressly exempted by other provisions of this act.

27 Section 47. Section 403.522, Florida Statutes, is
 28 amended to read:

29 403.522 Definitions relating to the Florida Electric
 30 Transmission Line Siting Act.--As used in this act:

31

1 (1) "Act" means the Florida Electric Transmission Line
2 Siting Act.

3 (2) "Agency," as the context requires, means an
4 official, officer, commission, authority, council, committee,
5 department, division, bureau, board, section, or other unit or
6 entity of government, including a county, municipality, or
7 other regional or local governmental entity.

8 (3) "Amendment" means a material change in information
9 provided by the applicant to the application for certification
10 made after the initial application filing.

11 (4) "Applicant" means any electric utility that ~~which~~
12 applies for certification under ~~pursuant to the provisions of~~
13 this act.

14 (5) "Application" means the documents required by the
15 department to be filed to initiate and support a certification
16 review and evaluation, including the initial document filing,
17 amendments, and responses to requests from the department for
18 additional data and information ~~proceeding~~. An electric
19 utility may file a comprehensive application encompassing all
20 or a part of one or more proposed transmission lines.

21 (6) "Board" means the Governor and Cabinet sitting as
22 the siting board.

23 (7) "Certification" means the approval by the board of
24 the license for a corridor proper for certification pursuant
25 to subsection (10) and the construction, operation, and
26 maintenance of transmission lines within the ~~such~~ corridor
27 with the ~~such~~ changes or conditions as the siting board deems
28 appropriate. Certification shall be evidenced by a written
29 order of the board.

30 (8) "Commission" means the Florida Public Service
31 Commission.

1 (9) "Completeness" means that the application has
2 addressed all applicable sections of the prescribed
3 application format ~~and, but does not mean~~ that those sections
4 are sufficient in comprehensiveness of data or in quality of
5 information provided to allow the department to determine
6 whether the application provides the reviewing agencies
7 adequate information to prepare the reports required by s.
8 403.526.

9 (10) "Corridor" means the proposed area within which a
10 transmission line right-of-way, including maintenance and
11 access roads, is to be located. The width of the corridor
12 proposed for certification by an applicant or other party, at
13 the option of the applicant, may be the width of the
14 transmission line right-of-way, or a wider boundary, not to
15 exceed a width of 1 mile. The area within the corridor in
16 which a right-of-way may be located may be further restricted
17 by a condition of certification. After all property interests
18 required for the transmission line right-of-way and
19 maintenance and access roads have been acquired by the
20 applicant, the boundaries of the area certified shall narrow
21 to only that land within the boundaries of the transmission
22 line right-of-way. The corridors proper for certification
23 shall be those addressed in the application, in amendments to
24 the application filed under ~~pursuant to~~ s. 403.5275, and in
25 notices of acceptance of proposed alternate corridors filed by
26 an applicant and the department pursuant to s. 403.5271 for
27 which the required ~~sufficient~~ information for the preparation
28 of agency supplemental reports was filed.

29 (11) "Department" means the Department of
30 Environmental Protection.
31

1 (12) "Electric utility" means cities and towns,
2 counties, public utility districts, regulated electric
3 companies, electric cooperatives, regional transmission
4 organizations, operators of independent transmission systems,
5 or other transmission organizations approved by the Federal
6 Energy Regulatory Commission or the commission for the
7 operation of transmission facilities, and joint operating
8 agencies, or combinations thereof, engaged in, or authorized
9 to engage in, the business of generating, transmitting, or
10 distributing electric energy.

11 (13) "License" means a franchise, permit,
12 certification, registration, charter, comprehensive plan
13 amendment, development order, or permit as defined in chapters
14 163 and 380, or similar form of authorization required by law,
15 but it does not include a license required primarily for
16 revenue purposes when issuance of the license is merely a
17 ministerial act.

18 (14) "Licensee" means an applicant that has obtained a
19 certification order for the subject project.

20 ~~(15)~~(14) "Local government" means a municipality or
21 county in the jurisdiction of which the project is proposed to
22 be located.

23 (16) "Maintenance and access roads" mean roads
24 constructed within the transmission line right-of-way. Nothing
25 in this act prohibits an applicant from constructing a road to
26 support construction, operation, or maintenance of the
27 transmission line that lies outside the transmission line
28 right-of-way.

29 ~~(17)~~(15) "Modification" means any change in the
30 certification order after issuance, including a change in the
31 conditions of certification.

1 ~~(18)(16)~~ "Nonprocedural requirements of agencies"
2 means any agency's regulatory requirements established by
3 statute, rule, ordinance, or comprehensive plan, excluding any
4 provisions prescribing forms, fees, procedures, or time limits
5 for the review or processing of information submitted to
6 demonstrate compliance with such regulatory requirements.

7 ~~(19)(17)~~ "Person" means an individual, partnership,
8 joint venture, private or public corporation, association,
9 firm, public service company, political subdivision, municipal
10 corporation, government agency, public utility district, or
11 any other entity, public or private, however organized.

12 ~~(20)(18)~~ "Preliminary statement of issues" means a
13 listing and explanation of those issues within the agency's
14 jurisdiction which are of major concern to the agency in
15 relation to the proposed electric ~~electrical~~ transmission line
16 corridor.

17 ~~(21)(19)~~ "Regional planning council" means a regional
18 planning council as defined in s. 186.503(4) in the
19 jurisdiction of which the project is proposed to be located.

20 ~~(20)~~ ~~"Sufficiency" means that the application is not~~
21 ~~only complete but that all sections are adequate in the~~
22 ~~comprehensiveness of data and in the quality of information~~
23 ~~provided to allow the department to determine whether the~~
24 ~~application provides the reviewing agencies adequate~~
25 ~~information to prepare the reports authorized by s. 403.526.~~

26 ~~(22)(21)~~ "Transmission line" or "electric transmission
27 line" means structures, maintenance and access roads, and all
28 other facilities that need to be constructed, operated, or
29 maintained for the purpose of conveying electric power ~~any~~
30 ~~electrical transmission line~~ extending from, but not
31 including, an existing or proposed substation or power plant

1 to, but not including, an existing or proposed transmission
 2 network or rights-of-way or substation to which the applicant
 3 intends to connect which defines the end of the proposed
 4 project and which is designed to operate at 230 kilovolts or
 5 more. ~~The starting point and ending point of a transmission~~
 6 ~~line must be specifically defined by the applicant and must be~~
 7 ~~verified by the commission in its determination of need. A~~
 8 ~~transmission line includes structures and maintenance and~~
 9 ~~access roads that need to be constructed for the project to~~
 10 ~~become operational.~~ The transmission line may include, at the
 11 applicant's option, any proposed terminal or intermediate
 12 substations or substation expansions necessary to serve the
 13 transmission line.

14 ~~(23)~~(22) "Transmission line right-of-way" means land
 15 necessary for the construction, operation, and maintenance of
 16 a transmission line. The typical width of the right-of-way
 17 shall be identified in the application. The right-of-way shall
 18 be located within the certified corridor and shall be
 19 identified by the applicant ~~subsequent to certification~~ in
 20 documents filed with the department before ~~prior to~~
 21 construction.

22 ~~(24)~~(23) "Water management district" means a water
 23 management district created pursuant to chapter 373 in the
 24 jurisdiction of which the project is proposed to be located.

25 Section 48. Section 403.523, Florida Statutes, is
 26 amended to read:

27 403.523 Department of Environmental Protection; powers
 28 and duties.--The department has ~~shall have~~ the following
 29 powers and duties:

30 (1) To adopt procedural rules pursuant to ss.
 31 120.536(1) and 120.54 to administer ~~implement the provisions~~

1 ~~of~~ this act and to adopt or amend rules to implement the
2 provisions of subsection (10).

3 (2) To prescribe the form and content of the public
4 notices and the form, content, and necessary supporting
5 documentation, and any required studies, for certification
6 applications. All ~~such~~ data and studies shall be related to
7 the jurisdiction of the agencies relevant to the application.

8 (3) To receive applications for transmission line and
9 corridor certifications and initially determine the
10 completeness ~~and sufficiency~~ thereof.

11 (4) To make or contract for studies of certification
12 applications. All ~~such~~ studies shall be related to the
13 jurisdiction of the agencies relevant to the application. For
14 studies in areas outside the jurisdiction of the department
15 and in the jurisdiction of another agency, the department may
16 initiate such studies, but only with the consent of the ~~such~~
17 agency.

18 (5) To administer the processing of applications for
19 certification and ensure that the applications, including
20 postcertification reviews, are processed on an expeditious and
21 priority basis ~~as expeditiously as possible~~.

22 (6) To collect and process ~~require~~ such fees as
23 allowed by this act.

24 (7) To prepare a report and project ~~written~~ analysis
25 as required by s. 403.526.

26 (8) To prescribe the means for monitoring the effects
27 arising from the location of the transmission line corridor
28 and the construction, operation, and maintenance of the
29 transmission lines to assure continued compliance with the
30 terms of the certification.

31

1 (9) To make a determination of acceptability of any
2 alternate corridor proposed for consideration under ~~pursuant~~
3 ~~to~~ s. 403.5271.

4 (10) To set requirements that reasonably protect the
5 public health and welfare from the electric and magnetic
6 fields of transmission lines for which an application is filed
7 under~~after the effective date of~~ this act.

8 (11) To present rebuttal evidence on any issue
9 properly raised at the certification hearing.

10 (12) To issue final orders after receipt of the
11 administrative law judge's order relinquishing jurisdiction
12 pursuant to s. 403.527(6).

13 (13) To act as clerk for the siting board.

14 (14) To administer and manage the terms and conditions
15 of the certification order and supporting documents and
16 records for the life of the facility.

17 (15) To issue emergency orders on behalf of the board
18 for facilities licensed under this act.

19 Section 49. Section 403.524, Florida Statutes, is
20 amended to read:

21 403.524 Applicability; ~~and~~ certification;
22 exemptions.--

23 (1) ~~The provisions of~~ This act applies ~~apply~~ to each
24 transmission line, except a transmission line certified under
25 ~~pursuant to~~ the Florida Electrical Power Plant Siting Act.

26 (2) Except as provided in subsection (1), ~~no~~
27 construction of a ~~any~~ transmission line may not be undertaken
28 without first obtaining certification under this act, but ~~the~~
29 ~~provisions of this act~~ does ~~do~~ not apply to:

30 (a) Transmission lines for which development approval
31 has been obtained under ~~pursuant to~~ chapter 380.

1 (b) Transmission lines that ~~which~~ have been exempted
2 by a binding letter of interpretation issued under s.
3 380.06(4), or in which the Department of Community Affairs or
4 its predecessor agency has determined the utility to have
5 vested development rights within the meaning of s. 380.05(18)
6 or s. 380.06(20).

7 (c) Transmission line development in which all
8 construction is limited to established rights-of-way.
9 Established rights-of-way include ~~such~~ rights-of-way
10 established at any time for roads, highways, railroads, gas,
11 water, oil, electricity, or sewage and any other public
12 purpose rights-of-way. If an established transmission line
13 right-of-way is used to qualify for this exemption, the
14 transmission line right-of-way must have been established at
15 least 5 years before notice of the start of construction under
16 subsection (4) of the proposed transmission line. If an
17 established transmission line right-of-way is relocated to
18 accommodate a public project, the date the original
19 transmission line right-of-way was established applies to the
20 relocated transmission line right-of-way for purposes of this
21 exemption. ~~Except for transmission line rights of way,~~
22 ~~established rights of way include rights of way created before~~
23 ~~or after October 1, 1983. For transmission line rights of way,~~
24 ~~established rights of way include rights of way created before~~
25 ~~October 1, 1983.~~

26 (d) Unless the applicant has applied for certification
27 under this act, transmission lines that ~~which~~ are less than 15
28 miles in length or are located in a single ~~which do not cross~~
29 ~~a county within the state line, unless the applicant has~~
30 ~~elected to apply for certification under the act.~~

31

1 (3) The exemption of a transmission line under this
 2 act does not constitute an exemption for the transmission line
 3 from other applicable permitting processes under other
 4 provisions of law or local government ordinances.

5 (4) An electric ~~A~~ utility shall notify the department
 6 in writing, before ~~prior to~~ the start of construction, of its
 7 intent to construct a transmission line exempted under
 8 ~~pursuant to~~ this section. The ~~Such~~ notice is ~~shall be~~ only for
 9 information purposes, and ~~no~~ action by the department is not
 10 ~~shall be~~ required pursuant to the ~~such~~ notice. This notice may
 11 be included in any submittal filed with the department before
 12 the start of construction demonstrating that a new
 13 transmission line complies with the applicable electric and
 14 magnetic field standards.

15 Section 50. Section 403.525, Florida Statutes, is
 16 amended to read:

17 403.525 ~~Appointment of Administrative law judge;~~
 18 appointment; powers and duties.--

19 (1)(a) Within 7 days after receipt of an application,
 20 whether complete or not, the department shall request the
 21 Division of Administrative Hearings to designate an
 22 administrative law judge to conduct the hearings required by
 23 this act.

24 (b) The division director shall designate an
 25 administrative law judge to conduct the hearings required by
 26 this act within 7 days after receipt of the request from the
 27 department. Whenever practicable, the division director shall
 28 assign an administrative law judge who has had prior
 29 experience or training in this type of certification
 30 proceeding.

31

1 (c) Upon being advised that an administrative law
2 judge has been designated, the department shall immediately
3 file a copy of the application and all supporting documents
4 with the administrative law judge, who shall docket the
5 application.

6 (2) The administrative law judge has all powers and
7 duties granted to administrative law judges under chapter 120
8 and by the laws and rules of the department.

9 Section 51. Section 403.5251, Florida Statutes, is
10 amended to read:

11 403.5251 ~~Distribution of Application~~; schedules.--

12 (1)(a) The formal date of the filing of the
13 application for certification and commencement of the review
14 process for certification is the date on which the applicant
15 submits:

16 1. Copies of the application for certification in a
17 quantity and format, electronic or otherwise as prescribed by
18 rule, to the department and other agencies identified in s.
19 403.526(2).

20 2. The application fee as specified under s. 403.5365
21 to the department.

22
23 The department shall provide to the applicant and the Division
24 of Administrative Hearings the names and addresses of any
25 additional agencies or persons entitled to notice and copies
26 of the application and amendments, if any, within 7 days after
27 receiving the application for certification and the
28 application fees.

29 (b) In the application, the starting point and ending
30 point of a transmission line must be specifically defined by
31 the applicant. ~~Within 7 days after the filing of an~~

1 ~~application, the department shall provide the applicant and~~
2 ~~the Division of Administrative Hearings the names and~~
3 ~~addresses of those affected or other agencies entitled to~~
4 ~~notice and copies of the application and any amendments.~~

5 (2) Within 15 7 days after the formal date of the
6 application filing completeness has been determined, the
7 department shall prepare a proposed schedule of dates for
8 determination of completeness, submission of statements of
9 issues, ~~determination of sufficiency,~~ and submittal of final
10 reports, ~~from affected and other agencies~~ and other
11 significant dates to be followed during the certification
12 process, including dates for filing notices of appearances to
13 be a party under s. 403.527(2) ~~pursuant to s. 403.527(4)~~. This
14 schedule shall be provided by the department to the applicant,
15 the administrative law judge, and the agencies identified
16 under pursuant to subsection (1). Within 7 days after the
17 filing of this proposed schedule, the administrative law judge
18 shall issue an order establishing a schedule for the matters
19 addressed in the department's proposed schedule and other
20 appropriate matters, if any.

21 (3) ~~Within 7 days after completeness has been~~
22 ~~determined, the applicant shall distribute copies of the~~
23 ~~application to all agencies identified by the department~~
24 ~~pursuant to subsection (1).~~ Copies of changes and amendments
25 to the application shall be timely distributed by the
26 applicant to all agencies and parties who have received a copy
27 of the application.

28 (4) Notice of the filing of the application shall be
29 made in accordance with the requirements of s. 403.5363.

30 Section 52. Section 403.5252, Florida Statutes, is
31 amended to read:

1 403.5252 Determination of completeness.--

2 (1)(a) Within 30 days after distribution of an
3 application, the affected agencies shall file a statement with
4 the department containing the recommendations of each agency
5 concerning the completeness of the application for
6 certification.

7 (b) Within 7 ~~15~~ days after receipt of the completeness
8 statements of each agency ~~an application~~, the department shall
9 file a statement with the Division of Administrative Hearings,
10 ~~and~~ with the applicant, and with all parties declaring its
11 position with regard to the completeness, ~~not the sufficiency,~~
12 of the application. The statement of the department shall be
13 based upon its consultation with the affected agencies.

14 (2)~~(1)~~ If the department declares the application to
15 be incomplete, the applicant, within ~~14~~ 15 days after the
16 filing of the statement by the department, shall file with the
17 Division of Administrative Hearings, ~~with all parties,~~ and
18 with the department a ~~statement~~:

19 (a) ~~A withdrawal of~~ Agreeing with the statement of the
20 ~~department and withdrawing~~ the application;

21 (b) Additional information necessary to make the
22 application complete. After the department first determines
23 the application to be incomplete, the time schedules under
24 this act are not tolled if the applicant makes the application
25 complete within the 14-day period. A subsequent finding by the
26 department that the application remains incomplete tolls the
27 time schedules under this act until the application is
28 determined complete;~~Agreeing with the statement of the~~
29 ~~department and agreeing to amend the application without~~
30 ~~withdrawing it. The time schedules referencing a complete~~

31

1 ~~application under this act shall not commence until the~~
2 ~~application is determined complete; or~~

3 (c) A statement contesting the department's
4 determination of incompleteness; or statement of the
5 department.

6 (d) A statement agreeing with the department and
7 requesting additional time to provide the information
8 necessary to make the application complete. If the applicant
9 exercises this option, the time schedules under this act are
10 tolled until the application is determined complete.

11 ~~(3)(a)(2)~~ If the applicant contests the determination
12 by the department that an application is incomplete, the
13 administrative law judge shall schedule a hearing on the
14 statement of completeness. The hearing shall be held as
15 expeditiously as possible, but not later than 21 ~~30~~ days after
16 the filing of the statement by the department. The
17 administrative law judge shall render a decision within 7 ~~10~~
18 days after the hearing.

19 (b) Parties to a hearing on the issue of completeness
20 shall include the applicant, the department, and any agency
21 that has jurisdiction over the matter in dispute. Any
22 substantially affected person who wishes to become a party to
23 the hearing on the issue of completeness must file a motion no
24 later than 10 days before the date of the hearing.

25 ~~(c)(a)~~ If the administrative law judge determines that
26 the application was not complete ~~as filed~~, the applicant shall
27 withdraw the application or make such additional submittals as
28 necessary to complete it. The time schedules referencing a
29 complete application under this act ~~do shall~~ not commence
30 until the application is determined complete.

31

1 ~~(d)(b)~~ If the administrative law judge determines that
2 the application was complete at the time it was declared
3 ~~incomplete~~filed, the time schedules referencing a complete
4 application under this act shall commence upon such
5 determination.

6 (4) If the applicant provides additional information
7 to address the issues identified in the determination of
8 incompleteness, each affected agency may submit to the
9 department, no later than 14 days after the applicant files
10 the additional information, a recommendation on whether the
11 agency believes the application is complete. Within 21 days
12 after receipt of the additional information from the applicant
13 submitted under paragraphs (2)(b), (2)(d), or (3)(c) and
14 considering the recommendations of the affected agencies, the
15 department shall determine whether the additional information
16 supplied by an applicant makes the application complete. If
17 the department finds that the application is still incomplete,
18 the applicant may exercise any of the options specified in
19 subsection (2) as often as is necessary to resolve the
20 dispute.

21 Section 53. Section 403.526, Florida Statutes, is
22 amended to read:

23 403.526 Preliminary statements of issues, reports, and
24 project analyses; and studies.--

25 (1) Each affected agency that is required to file a
26 report~~which received an application~~ in accordance with this
27 section ~~s. 403.5251(3)~~ shall submit a preliminary statement of
28 issues to the department and all parties ~~the applicant~~ no
29 later than 50 ~~60~~ days after the filing ~~distribution~~ of the
30 ~~complete~~ application. Such statements of issues shall be made
31 available to each local government for use as information for

1 public meetings ~~held under~~pursuant to s. 403.5272. The
2 failure to raise an issue in this preliminary statement of
3 issues ~~does shall~~ not preclude the issue from being raised in
4 the agency's report.

5 (2)(a) The following ~~affected~~ agencies shall prepare
6 reports as provided below and shall submit them to the
7 department and the applicant no later than ~~within~~ 90 days
8 after the filing ~~distribution~~ of the ~~complete~~ application:

9 1. The department shall prepare a report as to the
10 impact of each proposed transmission line or corridor as it
11 relates to matters within its jurisdiction.

12 2. Each water management district in the jurisdiction
13 of which a proposed transmission line or corridor is to be
14 located shall prepare a report as to the impact on water
15 resources and other matters within its jurisdiction.

16 3. The Department of Community Affairs shall prepare a
17 report containing recommendations which address the impact
18 upon the public of the proposed transmission line or corridor,
19 based on the degree to which the proposed transmission line or
20 corridor is consistent with the applicable portions of the
21 state comprehensive plan, emergency management, and other
22 matters within its jurisdiction. The Department of Community
23 Affairs may also comment on the consistency of the proposed
24 transmission line or corridor with applicable strategic
25 regional policy plans or local comprehensive plans and land
26 development regulations.

27 4. The Fish and Wildlife Conservation Commission shall
28 prepare a report as to the impact of each proposed
29 transmission line or corridor on fish and wildlife resources
30 and other matters within its jurisdiction.

31

1 5. Each local government shall prepare a report as to
2 the impact of each proposed transmission line or corridor on
3 matters within its jurisdiction, including the consistency of
4 the proposed transmission line or corridor with all applicable
5 local ordinances, regulations, standards, or criteria that
6 apply to the proposed transmission line or corridor, including
7 local comprehensive plans, zoning regulations, land
8 development regulations, and any applicable local
9 environmental regulations adopted pursuant to s. 403.182 or by
10 other means. ~~A No~~ change by the responsible local government
11 or local agency in local comprehensive plans, zoning
12 ordinances, or other regulations made after the date required
13 for the filing of the local government's report required by
14 this section is not ~~shall be~~ applicable to the certification
15 of the proposed transmission line or corridor unless the
16 certification is denied or the application is withdrawn.

17 6. Each regional planning council shall present a
18 report containing recommendations that address the impact upon
19 the public of the proposed transmission line or corridor based
20 on the degree to which the transmission line or corridor is
21 consistent with the applicable provisions of the strategic
22 regional policy plan adopted under ~~pursuant to~~ chapter 186 and
23 other impacts of each proposed transmission line or corridor
24 on matters within its jurisdiction.

25 7. The Department of Transportation shall prepare a
26 report as to the impact of the proposed transmission line or
27 corridor on state roads, railroads, airports, aeronautics,
28 seaports, and other matters within its jurisdiction.

29 8. The commission shall prepare a report containing
30 its determination under s. 403.537 and the report may include
31

1 the comments from the commission with respect to any other
2 subject within its jurisdiction.

3 9. Any other agency, if requested by the department,
4 shall also perform studies or prepare reports as to subjects
5 within the jurisdiction of the agency which may potentially be
6 affected by the proposed transmission line.

7 (b) Each report ~~must~~ shall contain:

8 1. A notice of any nonprocedural requirements not
9 specifically listed in the application from which a variance,
10 exemption, exception, or other relief is necessary in order
11 for the proposed corridor to be certified. Failure to include
12 the notice shall be treated as a waiver from the nonprocedural
13 requirements of that agency.

14 2. A recommendation for approval or denial of the
15 application.

16 3. The information on variances required by s.
17 403.531(2) and proposed conditions of certification on matters
18 within the jurisdiction of each agency. For each condition
19 proposed by an agency, the agency shall list the specific
20 statute, rule, or ordinance, as applicable, which authorizes
21 the proposed condition.

22 (c) Each reviewing agency shall initiate the
23 activities required by this section no later than 15 days
24 after the ~~complete~~ application is filed ~~distributed~~. Each
25 agency shall keep the applicant and the department informed as
26 to the progress of its studies and any issues raised thereby.

27 (d) When an agency whose agency head is a collegial
28 body, such as a commission, board, or council, is required to
29 submit a report pursuant to this section and is required by
30 its own internal procedures to have the report reviewed by its
31 agency head prior to finalization, the agency may submit to

1 the Department a draft version of the report by the deadline
2 indicated in subsection (a), and shall submit a final version
3 of the report after review by the agency head, and no later
4 than 15 days after the deadline indicated in subsection (a).

5 (e) Receipt of an affirmative determination of need
6 from the commission by the submittal deadline for agency
7 reports under paragraph (a) is a condition precedent to
8 further processing of the application.

9 (3) The department shall prepare a project written
10 analysis containing ~~which contains~~ a compilation of agency
11 reports and summaries of the material contained therein which
12 shall be filed with the administrative law judge and served on
13 all parties no later than ~~115~~ 135 days after the application
14 is filed ~~complete application has been distributed to the~~
15 ~~affected agencies~~, and which shall include:

16 (a) A statement indicating whether the proposed
17 electric transmission line will be in compliance with the
18 rules of the department and affected agencies.

19 ~~(b)(a)~~ The studies and reports required by this
20 section and s. 403.537.

21 ~~(c)(b)~~ Comments received from any other agency or
22 person.

23 ~~(d)(c)~~ The recommendation of the department as to the
24 disposition of the application, of variances, exemptions,
25 exceptions, or other relief identified by any party, and of
26 any proposed conditions of certification which the department
27 believes should be imposed.

28 (4) The failure of any agency to submit a preliminary
29 statement of issues or a report, or to submit its preliminary
30 statement of issues or report within the allowed time, is
31 ~~shall not be~~ grounds for the alteration of any time limitation

1 in this act under ~~pursuant to~~ s. 403.528. ~~Neither~~ The failure
 2 to submit a preliminary statement of issues or a report, or
 3 ~~nor~~ the inadequacy of the preliminary statement of issues or
 4 report, are not shall be grounds to deny or condition
 5 certification.

6 Section 54. Section 403.527, Florida Statutes, is
 7 amended to read:

8 (Substantial rewording of section. See

9 s. 403.527, F.S., for present text.)

10 403.527 Certification hearing, parties,
 11 participants.--

12 (1)(a) No later than 145 days after the application is
 13 filed, the administrative law judge shall conduct a
 14 certification hearing pursuant to ss. 120.569 and 120.57 at a
 15 central location in proximity to the proposed transmission
 16 line or corridor.

17 (b) Notice of the certification hearing and other
 18 public hearings provided for in this section and notice of the
 19 deadline for filing of notice of intent to be a party shall be
 20 made in accordance with the requirements of s. 403.5363.

21 (2)(a) Parties to the proceeding shall be:

22 1. The applicant.

23 2. The department.

24 3. The commission.

25 4. The Department of Community Affairs.

26 5. The Fish and Wildlife Conservation Commission.

27 6. The Department of Transportation.

28 7. Each water management district in the jurisdiction
 29 of which the proposed transmission line or corridor is to be
 30 located.

31 8. The local government.

1 9. The regional planning council.

2 (b) Any party listed in paragraph (a), other than the
3 department or the applicant, may waive its right to
4 participate in these proceedings. If any listed party fails to
5 file a notice of its intent to be a party on or before the
6 30th day before the certification hearing, the party is deemed
7 to have waived its right to be a party unless its
8 participation would not prejudice the rights of any party to
9 the proceeding.

10 (c) Notwithstanding the provisions of chapter 120 to
11 the contrary, upon the filing with the administrative law
12 judge of a notice of intent to be a party by an agency,
13 corporation, or association described in subparagraphs 1. and
14 2. or a petition for intervention by a person described in
15 subparagraph 3. no later than 30 days before the date set for
16 the certification hearing, the following shall also be parties
17 to the proceeding:

18 1. Any agency not listed in paragraph (a) as to
19 matters within its jurisdiction.

20 2. Any domestic nonprofit corporation or association
21 formed, in whole or in part, to promote conservation of
22 natural beauty; to protect the environment, personal health,
23 or other biological values; to preserve historical sites; to
24 promote consumer interests; to represent labor, commercial, or
25 industrial groups; or to promote comprehensive planning or
26 orderly development of the area in which the proposed
27 transmission line or corridor is to be located.

28 3. Any person whose substantial interests are affected
29 and being determined by the proceeding.

30

31

1 (d) Any agency whose properties or works may be
2 affected shall be made a party upon the request of the agency
3 or any party to this proceeding.

4 (3)(a) The order of presentation at the certification
5 hearing, unless otherwise changed by the administrative law
6 judge to ensure the orderly presentation of witnesses and
7 evidence, shall be:

8 1. The applicant.

9 2. The department.

10 3. State agencies.

11 4. Regional agencies, including regional planning
12 councils and water management districts.

13 5. Local governments.

14 6. Other parties.

15 (b) When appropriate, any person may be given an
16 opportunity to present oral or written communications to the
17 administrative law judge. If the administrative law judge
18 proposes to consider such communications, all parties shall be
19 given an opportunity to cross-examine, challenge, or rebut the
20 communications.

21 (4) One public hearing where members of the public who
22 are not parties to the certification hearing may testify shall
23 be held within the boundaries of each county, at the option of
24 any local government.

25 (a) A local government shall notify the administrative
26 law judge and all parties not later than 21 days after the
27 application has been determined complete as to whether the
28 local government wishes to have a public hearing. If a filing
29 for an alternate corridor is accepted for consideration under
30 s. 403.5271(1) by the department and the applicant, any newly
31 affected local government must notify the administrative law

1 judge and all parties not later than 10 days after the data
2 concerning the alternate corridor has been determined complete
3 as to whether the local government wishes to have such a
4 public hearing. The local government is responsible for
5 providing the location of the public hearing if held
6 separately from the certification hearing.

7 (b) Within 5 days after notification, the
8 administrative law judge shall determine the date of the
9 public hearing, which shall be held before or during the
10 certification hearing. If two or more local governments within
11 one county request a public hearing, the hearing shall be
12 consolidated so that only one public hearing is held in any
13 county. The location of a consolidated hearing shall be
14 determined by the administrative law judge.

15 (c) If a local government does not request a public
16 hearing within 21 days after the application has been
17 determined complete, persons residing within the jurisdiction
18 of the local government may testify during that portion of the
19 certification hearing at which public testimony is heard.

20 (5) At the conclusion of the certification hearing,
21 the administrative law judge shall, after consideration of all
22 evidence of record, issue a recommended order disposing of the
23 application no later than 45 days after the transcript of the
24 certification hearing and the public hearings is filed with
25 the Division of Administrative Hearings.

26 (6)(a) No later than 25 days before the certification
27 hearing, the department or the applicant may request that the
28 administrative law judge cancel the certification hearing and
29 relinquish jurisdiction to the department if all parties to
30 the proceeding stipulate that there are no disputed issues of
31 material fact to be raised at the certification hearing.

1 (b) The administrative law judge shall issue an order
 2 granting or denying the request within 5 days.

3 (c) If the administrative law judge grants the
 4 request, the department and the applicant shall publish
 5 notices of the cancellation of the certification hearing in
 6 accordance with s. 403.5363.

7 (d)1. If the administrative law judge grants the
 8 request, the department shall prepare and issue a final order
 9 in accordance with s. 403.529(1)(a).

10 2. Parties may submit proposed final orders to the
 11 department no later than 10 days after the administrative law
 12 judge issues an order relinquishing jurisdiction.

13 (7) The applicant shall pay those expenses and costs
 14 associated with the conduct of the hearing and the recording
 15 and transcription of the proceedings.

16 Section 55. Section 403.5271, Florida Statutes, is
 17 amended to read:

18 403.5271 Alternate corridors.--

19 (1) No later than 45 ~~50~~ days before ~~prior to~~ the
 20 originally scheduled certification hearing, any party may
 21 propose alternate transmission line corridor routes for
 22 consideration under ~~pursuant to~~ the provisions of this act.

23 (a) A notice of a ~~any such~~ proposed alternate corridor
 24 must ~~shall~~ be filed with the administrative law judge, all
 25 parties, and any local governments in whose jurisdiction the
 26 alternate corridor is proposed. The ~~Such~~ filing must ~~shall~~
 27 include the most recent United States Geological Survey
 28 1:24,000 quadrangle maps specifically delineating the corridor
 29 boundaries, a description of the proposed corridor, and a
 30 statement of the reasons the proposed alternate corridor
 31 should be certified.

1 (b)1. Within 7 days after receipt of ~~the such~~ notice,
2 the applicant and the department shall file with the
3 administrative law judge and all parties a notice of
4 acceptance or rejection of a proposed alternate corridor for
5 consideration. If the alternate corridor is rejected ~~either~~ by
6 the applicant or the department, the certification hearing and
7 the public hearings shall be held as scheduled. If both the
8 applicant and the department accept a proposed alternate
9 corridor for consideration, the certification hearing and the
10 public hearings shall be rescheduled, if necessary.

11 2. If rescheduled, the certification hearing shall be
12 held no more than 90 days after the previously scheduled
13 certification hearing, unless the data submitted under
14 paragraph (d) is determined to be incomplete, in which case
15 the rescheduled certification hearing shall be held no more
16 than 105 days after the previously scheduled certification
17 hearing. If additional time is needed due to the alternate
18 corridor crossing a local government jurisdiction that was not
19 previously affected, in which case the remainder of the
20 schedule listed below shall be appropriately adjusted by the
21 administrative law judge to allow that local government to
22 prepare a report pursuant to s. 403.526(2)(a)5.

23 (c) Notice of the filing of the alternate corridor, of
24 the revised time schedules, of the deadline for newly affected
25 persons and agencies to file notice of intent to become a
26 party, of the rescheduled hearing date, and of the proceedings
27 ~~pursuant to s. 403.527(1)(b) and (c)~~ shall be published in
28 accordance with s. 403.5363.

29 (d) Within 21 ~~25~~ days after acceptance of an alternate
30 corridor by the department and the applicant, the party
31 proposing an alternate corridor shall have the burden of

1 providing all ~~additional~~ data to the agencies listed in s.
2 403.526(2) and newly affected agencies ~~s. 403.526~~ necessary
3 for the preparation of a supplementary report on the proposed
4 alternate corridor.

5 (e)1. Reviewing agencies shall advise the department
6 of any issues concerning completeness no later than 15 days
7 after the submittal of the data required by paragraph (d).
8 Within 22 days after receipt of the data, the department shall
9 issue a determination of completeness.

10 2. If the department determines that the data required
11 by paragraph (d) is not complete, the party proposing the
12 alternate corridor must file such additional data to correct
13 the incompleteness. This additional data must be submitted
14 within 14 days after the determination by the department.

15 3. If the department, within 14 days after receiving
16 the additional data, determines that the data remains
17 incomplete, the incompleteness of the data is deemed a
18 withdrawal of the proposed alternate corridor. The department
19 may make its determination based on recommendations made by
20 other affected agencies. If the department determines within
21 15 days that this additional data is insufficient, the party
22 proposing the alternate corridor shall file such additional
23 data that corrects the insufficiency within 15 days after the
24 filing of the department's determination. If such additional
25 data is determined insufficient, such insufficiency of data
26 shall be deemed a withdrawal of the proposed alternate
27 corridor. The party proposing an alternate corridor shall have
28 the burden of proof on the certifiability of the alternate
29 corridor at the certification hearing pursuant to s.
30 403.529(4). Nothing in this act shall be construed as
31 requiring the applicant or agencies not proposing the

1 ~~alternate corridor to submit data in support of such alternate~~
 2 ~~corridor.~~

3 (f) The agencies listed in s. 403.526(2) and any newly
 4 affected agencies s. 403.526 shall file supplementary reports
 5 with the applicant and the department which address ~~addressing~~
 6 the proposed alternate corridors no later than 24 ~~60~~ days
 7 after the ~~additional data is~~ submitted pursuant to paragraph
 8 (d) or paragraph (e) is determined to be complete.

9 (g) The agency reports on alternate corridors must
 10 include all information required by s. 403.526(2) ~~agencies~~
 11 ~~shall submit supplementary notice pursuant to s. 403.531(2) at~~
 12 ~~the time of filing of their supplemental report.~~

13 (h) When an agency whose agency head is a collegial
 14 body, such as a commission, board, or council, is required to
 15 submit a report pursuant to this section and is required by
 16 its own internal procedures to have the report reviewed by its
 17 agency head prior to finalization, the agency may submit to
 18 the Department a draft version of the report by the deadline
 19 indicated in subsection (f), and shall submit a final version
 20 of the report after review by the agency head, and no later
 21 than 7 days after the deadline indicated in subsection (f).

22 (i)~~(h)~~ The department shall file with the
 23 administrative law judge, the applicant, and all parties a
 24 project ~~prepare a written~~ analysis consistent with s.
 25 403.526(3) no more than 16~~at least 29~~ days after submittal of
 26 agency reports on ~~prior to the rescheduled certification~~
 27 ~~hearing~~ ~~addressing~~ the proposed alternate corridor.

28 (2) If the original certification hearing date is
 29 rescheduled, the rescheduling shall not provide the
 30 opportunity for parties to file additional alternate corridors
 31 to the applicant's proposed corridor or any accepted alternate

1 | corridor. However, an amendment to the application which
2 | changes the alignment of the applicant's proposed corridor
3 | shall require rescheduling of the certification hearing, if
4 | necessary, so as to allow time for a party to file alternate
5 | corridors to the realigned proposed corridor for which the
6 | application has been amended. Any ~~such~~ alternate corridor
7 | proposal shall have the same starting and ending points as the
8 | realigned portion of the corridor proposed by the applicant's
9 | amendment, provided that the administrative law judge for good
10 | cause shown may authorize another starting or ending point in
11 | the area of the applicant's amended corridor.

12 | (3)(a) Notwithstanding the rejection of a proposed
13 | alternate corridor by the applicant or the department, any
14 | party may present evidence at the certification hearing to
15 | show that a corridor proper for certification does not satisfy
16 | the criteria listed in s. 403.529 or that a rejected alternate
17 | corridor would meet the criteria set forth in s. 403.529. ~~No~~
18 | Evidence may not~~shall~~ be admitted at the certification
19 | hearing on any alternate corridor, unless the alternate
20 | corridor was proposed by the filing of a notice at least ~~45~~ 50
21 | days before ~~prior to~~ the originally scheduled certification
22 | hearing pursuant to this section. Rejected alternate corridors
23 | shall be considered by the board as provided in s. 403.529(4)
24 | and (5).

25 | (b) The party proposing an alternate corridor has the
26 | burden to prove that the alternate corridor can be certified
27 | at the certification hearing. This act does not require an
28 | applicant or agency that is not proposing the alternate
29 | corridor to submit data in support of the alternate corridor.

30 | (4) If an alternate corridor is accepted by the
31 | applicant and the department pursuant to a notice of

1 acceptance as provided in this subsection and ~~the such~~
 2 corridor is ultimately determined to be the corridor that
 3 would meet the criteria set forth in s. 403.529(4) and (5),
 4 the board shall certify that corridor.

5 Section 56. Section 403.5272, Florida Statutes, is
 6 amended to read:

7 403.5272 ~~Local governments;~~ Informational public
 8 meetings.--

9 (1) A local government whose jurisdiction is to be
 10 crossed by a proposed corridor ~~governments~~ may hold one
 11 informational public ~~meeting~~ ~~meetings~~ in addition to the
 12 hearings specifically authorized by this act on any matter
 13 associated with the transmission line proceeding. ~~The Such~~
 14 informational public meeting may be conducted by the local
 15 government or the regional planning council and shall ~~meetings~~
 16 ~~should~~ be held no later than 55 ~~80~~ days after the application
 17 is filed. The purpose of an informational public meeting is
 18 for the local government or regional planning council to
 19 further inform the ~~general~~ public about the transmission line
 20 proposed, obtain comments from the public, and formulate its
 21 recommendation with respect to the proposed transmission line.

22 (2) Informational public meetings shall be held solely
 23 at the option of each local government or regional planning
 24 council. It is the legislative intent that local governments
 25 or regional planning councils attempt to hold such public
 26 meetings. Parties to the proceedings under this act shall be
 27 encouraged to attend; however, a no party other than the
 28 applicant and the department is not ~~shall be~~ required to
 29 attend ~~the such~~ informational public ~~meetings~~ ~~hearings~~.

30 (3) A local government or regional planning council
 31 that intends to conduct an informational public meeting must

1 provide notice of the meeting, with notice sent to all parties
2 listed in s. 403.527(2)(a), not less than 5 days before the
3 meeting.

4 ~~(4)(3)~~ The failure to hold an informational public
5 meeting or the procedure used for the informational public
6 meeting ~~are shall~~ not be grounds for the alteration of any
7 time limitation in this act under ~~pursuant to~~ s. 403.528 or
8 grounds to deny or condition certification.

9 Section 57. Section 403.5275, Florida Statutes, is
10 amended to read:

11 403.5275 Amendment to the application.--

12 (1) Any amendment made to the application before
13 certification shall be sent by the applicant to the
14 administrative law judge and to all parties to the proceeding.

15 (2) Any amendment to the application made before ~~prior~~
16 ~~to~~ certification shall be disposed of as part of the original
17 certification proceeding. Amendment of the application may be
18 considered "good cause" for alteration of time limits pursuant
19 to s. 403.528.

20 Section 58. Section 403.528, Florida Statutes, is
21 amended to read:

22 403.528 Alteration of time limits.--

23 (1) Any time limitation in this act may be altered by
24 the administrative law judge upon stipulation between the
25 department and the applicant unless objected to by any party
26 within 5 days after notice or for good cause shown by any
27 party.

28 (2) A comprehensive application encompassing more than
29 one proposed transmission line may be good cause for
30 alternation of time limits.

31

1 Section 59. Section 403.529, Florida Statutes, is
2 amended to read:

3 403.529 Final disposition of application.--

4 (1)(a) If the administrative law judge has granted a
5 request to cancel the certification hearing and has
6 relinquished jurisdiction to the department under s.
7 403.527(6), within 40 days thereafter, the secretary of the
8 department shall act upon the application by written order in
9 accordance with the terms of this act and state the reasons
10 for issuance or denial.

11 (b) If the administrative law judge does not grant a
12 request to cancel the certification hearing under the
13 provisions of s. 403.527(6) within 60 ~~30~~ days after receipt of
14 the administrative law judge's recommended order, the board
15 shall act upon the application by written order, approving in
16 whole, approving with such conditions as the board deems
17 appropriate, or denying the certification and stating the
18 reasons for issuance or denial.

19 (2) The issues that may be raised in any hearing
20 before the board shall be limited to matters raised in the
21 certification proceeding before the administrative law judge
22 or raised in the recommended order of the administrative law
23 judge. All parties, or their representatives, or persons who
24 appear before the board shall be subject to ~~the provisions of~~
25 s. 120.66.

26 (3) If certification is denied, the board, or
27 secretary if applicable, shall set forth in writing the action
28 the applicant would have to take to secure the approval of the
29 application ~~by the board~~.

30 (4) In determining whether an application should be
31 approved in whole, approved with modifications or conditions,

1 or denied, the board, or secretary when applicable, shall
2 consider whether, and the extent to which, the location of the
3 transmission line corridor and the construction, operation,
4 and maintenance of the transmission line will:

5 (a) Ensure electric power system reliability and
6 integrity;

7 (b) Meet the electrical energy needs of the state in
8 an orderly, economical, and timely fashion;

9 (c) Comply with applicable nonprocedural requirements
10 of agencies;

11 (d) Be consistent with applicable provisions of local
12 government comprehensive plans, if any; and

13 (e) Effect a reasonable balance between the need for
14 the transmission line as a means of providing reliable,
15 economically efficient electric energy, as determined by the
16 commission, under s. 403.537, ~~abundant low cost electrical~~
17 ~~energy~~ and the impact upon the public and the environment
18 resulting from the location of the transmission line corridor
19 and the construction, operation, and maintenance of the
20 transmission lines.

21 (5)(a) Any transmission line corridor certified by the
22 board, or secretary if applicable, shall meet the criteria of
23 this section. When more than one transmission line corridor is
24 proper for certification under ~~pursuant to~~ s. 403.522(10) and
25 meets the criteria of this section, the board, or secretary if
26 applicable, shall certify the transmission line corridor that
27 has the least adverse impact regarding the criteria in
28 subsection (4), including costs.

29 (b) If the board, or secretary if applicable, finds
30 that an alternate corridor rejected pursuant to s. 403.5271
31 meets the criteria of subsection (4) and has the least adverse

1 impact regarding the criteria in subsection (4), including
 2 cost, of all corridors that meet the criteria of subsection
 3 (4), ~~then~~ the board, or secretary if applicable, shall deny
 4 certification or shall allow the applicant to submit an
 5 amended application to include the ~~such~~ corridor.

6 (c) If the board, or secretary if applicable, finds
 7 that two or more of the corridors that comply with ~~the~~
 8 ~~provisions of~~ subsection (4) have the least adverse impacts
 9 regarding the criteria in subsection (4), including costs, and
 10 that the ~~such~~ corridors are substantially equal in adverse
 11 impacts regarding the criteria in subsection (4), including
 12 costs, ~~then~~ the board, or secretary if applicable, shall
 13 certify the corridor preferred by the applicant if the
 14 corridor is one proper for certification under ~~pursuant to~~ s.
 15 403.522(10).

16 (6) The issuance or denial of the certification is ~~by~~
 17 ~~the board shall be~~ the final administrative action required as
 18 to that application.

19 Section 60. Section 403.531, Florida Statutes, is
 20 amended to read:

21 403.531 Effect of certification.--

22 (1) Subject to the conditions set forth therein,
 23 certification shall constitute the sole license of the state
 24 and any agency as to the approval of the location of
 25 transmission line corridors and the construction, operation,
 26 and maintenance of transmission lines. The certification is
 27 ~~shall be~~ valid for the life of the transmission line, if
 28 ~~provided that~~ construction on, or condemnation or acquisition
 29 of, the right-of-way is commenced within 5 years after ~~of~~ the
 30 date of certification or such later date as may be authorized
 31 by the board.

1 (2)(a) The certification authorizes ~~shall authorize~~
2 the licensee applicant to locate the transmission line
3 corridor and to construct and maintain the transmission lines
4 subject only to the conditions of certification set forth in
5 the ~~such~~ certification.

6 (b) The certification may include conditions that
7 ~~which~~ constitute variances and exemptions from nonprocedural
8 standards or rules ~~regulations~~ of the department or any other
9 agency, ~~which were expressly considered during the~~
10 certification review proceeding unless waived by the agency as
11 provided in s. 403.526 ~~below~~ and which otherwise would be
12 applicable to the location of the proposed transmission line
13 corridor or the construction, operation, and maintenance of
14 the transmission lines. ~~Each party shall notify the applicant~~
15 ~~and other parties at the time scheduled for the filing of the~~
16 ~~agency reports of any nonprocedural requirements not~~
17 ~~specifically listed in the application from which a variance,~~
18 ~~exemption, exception, or other relief is necessary in order~~
19 ~~for the board to certify any corridor proposed for~~
20 ~~certification. Failure of such notification shall be treated~~
21 ~~as a waiver from the nonprocedural requirements of that~~
22 ~~agency.~~

23 (3)(a) The certification shall be in lieu of any
24 license, permit, certificate, or similar document required by
25 any state, regional, or local agency under ~~pursuant to~~, but
26 not limited to, chapter 125, chapter 161, chapter 163, chapter
27 166, chapter 186, chapter 253, chapter 258, chapter 298,
28 chapter 370, chapter 372, chapter 373, chapter 376, chapter
29 380, chapter 381, ~~chapter 387~~, chapter 403, chapter 404, the
30 Florida Transportation Code, or 33 U.S.C. s. 1341.

31

1 **(b)** On certification, any license, easement, or other
2 interest in state lands, except those the title of which is
3 vested in the Board of Trustees of the Internal Improvement
4 Trust Fund, shall be issued by the appropriate agency as a
5 ministerial act. The applicant shall ~~be required to~~ seek any
6 necessary interest in state lands the title to which is vested
7 in the Board of Trustees of the Internal Improvement Trust
8 Fund from the board of trustees before, during, or after the
9 certification proceeding, and certification may be made
10 contingent upon issuance of the appropriate interest in
11 realty. However, ~~neither~~ the applicant and ~~nor~~ any party to
12 the certification proceeding may not directly or indirectly
13 raise or relitigate any matter that ~~which~~ was or could have
14 been an issue in the certification proceeding in any
15 proceeding before the Board of Trustees of the Internal
16 Improvement Trust Fund wherein the applicant is seeking a
17 necessary interest in state lands, but the information
18 presented in the certification proceeding shall be available
19 for review by the board of trustees and its staff.

20 (4) This act does ~~shall~~ not in any way affect the
21 ratemaking powers of the commission under chapter 366. This
22 act does ~~shall also~~ not in any way affect the right of any
23 local government to charge appropriate fees or require that
24 construction be in compliance with the National Electrical
25 Safety Code, as prescribed by the commission.

26 (5) A ~~No~~ term or condition of certification may not
27 ~~shall~~ be interpreted to preclude the postcertification
28 exercise by any party of whatever procedural rights it may
29 have under chapter 120, including those related to rulemaking
30 proceedings.

31

1 Section 61. Section 403.5312, Florida Statutes, is
2 amended to read:

3 403.5312 Filing ~~Recording~~ of notice of certified
4 corridor route.--

5 (1) Within 60 days after certification of a directly
6 associated transmission line under ~~pursuant to~~ ss.
7 403.501-403.518 or a transmission line corridor under ~~pursuant~~
8 ~~to~~ ss. 403.52-403.5365, the applicant shall file with the
9 department and, in accordance with s. 28.222, with the clerk
10 of the circuit court for each county through which the
11 corridor will pass, a notice of the certified route.

12 (2) The notice must ~~shall~~ consist of maps or aerial
13 photographs in the scale of 1:24,000 which clearly show the
14 location of the certified route and must ~~shall~~ state that the
15 certification of the corridor will result in the acquisition
16 of rights-of-way within the corridor. Each clerk shall record
17 the filing in the official record of the county for the
18 duration of the certification or until such time as the
19 applicant certifies to the department and the clerk that all
20 lands required for the transmission line rights-of-way within
21 the corridor have been acquired within the ~~such~~ county,
22 whichever is sooner.

23 (3) The recording of this notice does ~~shall~~ not
24 constitute a lien, cloud, or encumbrance on real property.

25 Section 62. Section 403.5315, Florida Statutes, is
26 amended to read:

27 403.5315 Modification of certification.--A
28 certification may be modified after issuance in any one of the
29 following ways:

30 (1) The board may delegate to the department the
31 authority to modify specific conditions in the certification.

1 (2) The licensee may file a petition for modification
2 with the department or the department may initiate the
3 modification upon its own initiative.

4 (a) A petition for modification must set forth:

5 1. The proposed modification;

6 2. The factual reasons asserted for the modification;

7 and

8 3. The anticipated additional environmental effects of
9 the proposed modification.

10 ~~(b)(2)~~ The department may modify the terms and
11 conditions of the certification if no party objects in writing
12 to the ~~such~~ modification within 45 days after notice by mail
13 to the last address of record in the certification proceeding,
14 and if no other person whose substantial interests will be
15 affected by the modification objects in writing within 30 days
16 after issuance of public notice.

17 (c) If objections are raised or the department denies
18 the proposed modification, the licensee may file a request for
19 hearing on the modification with the department. Such a
20 request shall be handled pursuant to chapter 120.

21 (d) A request for hearing referred to the Division of
22 Administrative Hearings shall be disposed of in the same
23 manner as an application but with time periods established by
24 the administrative law judge commensurate with the
25 significance of the modification requested. ~~If objections are~~
26 raised, the applicant may file a petition for modification
27 pursuant to subsection (3).

28 ~~(3) The applicant or the department may file a~~
29 ~~petition for modification with the department and the Division~~
30 ~~of Administrative Hearings setting forth:~~

31 ~~(a) The proposed modification;~~

1 ~~(b) The factual reasons asserted for the modification;~~
2 ~~and~~

3 ~~(c) The anticipated additional environmental effects~~
4 ~~of the proposed modification.~~

5 ~~(4) Petitions filed pursuant to subsection (3) shall~~
6 ~~be disposed of in the same manner as an application but with~~
7 ~~time periods established by the administrative law judge~~
8 ~~commensurate with the significance of the modification~~
9 ~~requested.~~

10 Section 63. Section 403.5317, Florida Statutes, is
11 created to read:

12 403.5317 Postcertification activities.--

13 (1)(a) If, subsequent to certification, a licensee
14 proposes any material change to the application or prior
15 amendments, the licensee shall submit to the department a
16 written request for amendment and description of the proposed
17 change to the application. The department shall, within 30
18 days after the receipt of the request for the amendment,
19 determine whether the proposed change to the application
20 requires a modification of the conditions of certification.

21 (b) If the department concludes that the change would
22 not require a modification of the conditions of certification,
23 the department shall notify, in writing, the licensee, all
24 agencies, and all parties of the approval of the amendment.

25 (c) If the department concludes that the change would
26 require a modification of the conditions of certification, the
27 department shall notify the licensee that the proposed change
28 to the application requires a request for modification under
29 s. 403.5315.

30 (2) Postcertification submittals filed by a licensee
31 with one or more agencies are for the purpose of monitoring

1 for compliance with the issued certification. Each submittal
2 must be reviewed by each agency on an expedited and priority
3 basis because each facility certified under this act is a
4 critical infrastructure facility. Postcertification review may
5 not be completed more than 90 days after complete information
6 for a segment of the certified transmission line is submitted
7 to the reviewing agencies.

8 Section 64. Section 403.5363, Florida Statutes, is
9 created to read:

10 403.5363 Public notices; requirements.--

11 (1)(a) The applicant shall arrange for the publication
12 of the notices specified in paragraph (b).

13 1. The notices shall be published in newspapers of
14 general circulation within counties crossed by the
15 transmission line corridors proper for certification. The
16 required newspaper notices for filing of an application and
17 for the certification hearing shall be one-half page in size
18 in a standard-size newspaper or a full page in a tabloid-size
19 newspaper and published in a section of the newspaper other
20 than the section for legal notices. These two notices must
21 include a map generally depicting all transmission corridors
22 proper for certification. A newspaper of general circulation
23 shall be the newspaper within a county crossed by a
24 transmission line corridor proper for certification which
25 newspaper has the largest daily circulation in that county and
26 has its principal office in that county. If the newspaper
27 having the largest daily circulation has its principal office
28 outside the county, the notices must appear in both the
29 newspaper having the largest circulation in that county and in
30 a newspaper authorized to publish legal notices in that
31 county.

1 2. The department shall adopt rules specifying the
2 content of the newspaper notices.

3 3. All notices published by the applicant shall be
4 paid for by the applicant and shall be in addition to the
5 application fee.

6 (b) Public notices that must be published under this
7 section include:

8 1. The notice of the filing of an application, which
9 must include a description of the proceedings required by this
10 act. The notice must describe the provisions of s. 403.531(1)
11 and (2) and give the date by which notice of intent to be a
12 party or a petition to intervene in accordance with s.
13 403.527(2) must be filed. This notice must be published no
14 more than 21 days after the application is filed.

15 2. The notice of the certification hearing and any
16 other public hearing permitted under s. 403.527. The notice
17 must include the date by which a person wishing to appear as a
18 party must file the notice to do so. The notice of the
19 certification hearing must be published at least 65 days
20 before the date set for the certification hearing.

21 3. The notice of the cancellation of the certification
22 hearing, if applicable. The notice must be published at least
23 3 days before the date of the originally scheduled
24 certification hearing.

25 4. The notice of the filing of a proposal to modify
26 the certification submitted under s. 403.5315, if the
27 department determines that the modification would require
28 relocation or expansion of the transmission line right-of-way
29 or a certified substation.

30 (2) The proponent of an alternate corridor shall
31 arrange for the publication of the filing of the proposal for

1 an alternate corridor, the revised time schedules, the date by
2 which newly affected persons or agencies may file the notice
3 of intent to become a party, and the date of the rescheduled
4 hearing. A notice listed in this subsection must be published
5 in a newspaper of general circulation within the county or
6 counties crossed by the proposed alternate corridor and comply
7 with the content requirements set forth in paragraph (1)(a).
8 The notice must be published not less than 50 days before the
9 rescheduled certification hearing.

10 (3) The department shall arrange for the publication
11 of the following notices in the manner specified by chapter
12 120:

13 (a) The notice of the filing of an application and the
14 date by which a person intending to become a party must file a
15 petition to intervene or a notice of intent to be a party. The
16 notice must be published no later than 21 days after the
17 application has been filed.

18 (b) The notice of any administrative hearing for
19 certification, if applicable. The notice must be published not
20 less than 65 days before the date set for a hearing, except
21 that notice for a rescheduled certification hearing after
22 acceptance of an alternative corridor must be published not
23 less than 50 days before the date set for the hearing.

24 (c) The notice of the cancellation of a certification
25 hearing, if applicable. The notice must be published not later
26 than 7 days before the date of the originally scheduled
27 certification hearing.

28 (d) The notice of the hearing before the siting board,
29 if applicable.

30 (e) The notice of stipulations, proposed agency
31 action, or a petition for modification.

1 Section 65. Section 403.5365, Florida Statutes, is
2 amended to read:

3 403.5365 Fees; disposition.--The department shall
4 charge the applicant the following fees, as appropriate,
5 which, unless otherwise specified, shall be paid into the
6 Florida Permit Fee Trust Fund:

7 (1) An application fee.

8 (a) The application fee shall be of \$100,000, plus
9 \$750 per mile for each mile of corridor in which the
10 transmission line right-of-way is proposed to be located
11 within an existing electric ~~electrical~~ transmission line
12 right-of-way or within any existing right-of-way for any road,
13 highway, railroad, or other aboveground linear facility, or
14 \$1,000 per mile for each mile of electric transmission line
15 corridor proposed to be located outside the ~~such~~ existing
16 right-of-way.

17 (b)(a) Sixty percent of the fee shall go to the
18 department to cover any costs associated with coordinating the
19 review of reviewing and acting upon the application and any
20 costs for field services associated with monitoring
21 construction and operation of the electric transmission line
22 facility.

23 (c)(b) The following percentage ~~Twenty percent of the~~
24 ~~fees specified under this section, except postcertification~~
25 ~~fees,~~ shall be transferred to the Administrative Trust Fund of
26 the Division of Administrative Hearings of the Department of
27 Management Services:--

28 1. Five percent to compensate for expenses from the
29 initial exercise of duties associated with the filing of an
30 application.

31

1 2. An additional 10 percent if an administrative
 2 hearing under s. 403.527 is held.

3 ~~(d)1.(e)~~ Upon written request with proper itemized
 4 accounting within 90 days after final agency action by the
 5 siting board or the department or the withdrawal of the
 6 application, the agencies that prepared reports under s.
 7 403.526 or s. 403.5271 or participated in a hearing under s.
 8 403.527 or s. 403.5271 may submit a written request to the
 9 department for reimbursement of expenses incurred during the
 10 certification proceedings. The request must contain an
 11 accounting of expenses incurred, which may include time spent
 12 reviewing the application, department shall reimburse the
 13 ~~expenses and costs of the Department of Community Affairs, the~~
 14 ~~Fish and Wildlife Conservation Commission, the water~~
 15 ~~management district, regional planning council, and local~~
 16 ~~government in the jurisdiction of which the transmission line~~
 17 ~~is to be located. Such reimbursement shall be authorized for~~
 18 ~~the preparation of any studies required of the agencies by~~
 19 ~~this act, and for agency travel and per diem to attend any~~
 20 ~~hearing held under pursuant to this act, and for the local~~
 21 ~~government or regional planning council providing additional~~
 22 ~~notice of the informational public meeting. The department~~
 23 ~~shall review the request and verify whether a claimed expense~~
 24 ~~is valid. Valid expenses shall be reimbursed; however, if to~~
 25 ~~participate in the proceedings. In the event the amount of~~
 26 ~~funds available for reimbursement allocation is insufficient~~
 27 ~~to provide for full compensation complete reimbursement to the~~
 28 ~~agencies, reimbursement shall be on a prorated basis.~~

29 2. If the application review is held in abeyance for
 30 more than 1 year, the agencies may submit a request for
 31 reimbursement under subparagraph 1.

1 ~~(e)(d)~~ If any sums are remaining, the department shall
 2 retain them for its use in the same manner as is otherwise
 3 authorized by this section; ~~provided,~~ however, ~~that~~ if the
 4 certification application is withdrawn, the remaining sums
 5 shall be refunded to the applicant within 90 days after
 6 withdrawal.

7 (2) An amendment fee.

8 (a) If no corridor alignment change is proposed by the
 9 amendment, no amendment fee shall be charged.

10 (b) If a corridor alignment change under s. 403.5275
 11 is proposed by the applicant, an additional fee of a minimum
 12 of \$2,000 and \$750 per mile shall be submitted to the
 13 department for use in accordance with this act.

14 (c) If an amendment is required to address issues,
 15 including alternate corridors under ~~pursuant to~~ s. 403.5271,
 16 raised by the department or other parties, no fee for the ~~such~~
 17 amendment shall be charged.

18 (3) A certification modification fee.

19 (a) If no corridor alignment change is proposed by the
 20 licensee applicant, the modification fee shall be \$4,000.

21 (b) If a corridor alignment change is proposed by the
 22 licensee applicant, the fee shall be \$1,000 for each mile of
 23 realignment plus an amount not to exceed \$10,000 to be fixed
 24 by rule on a sliding scale based on the load-carrying
 25 capability and configuration of the transmission line for use
 26 in accordance with subsection ~~(1)(2)~~.

27 Section 66. Subsection (1) of section 403.537, Florida
 28 Statutes, is amended to read:

29 403.537 Determination of need for transmission line;
 30 powers and duties.--

31

1 (1)(a) Upon request by an applicant or upon its own
2 motion, the Florida Public Service Commission shall schedule a
3 public hearing, after notice, to determine the need for a
4 transmission line regulated by the Florida Electric
5 Transmission Line Siting Act, ss. 403.52-403.5365. ~~The Such~~
6 notice shall be published at least 21 ~~45~~ days before the date
7 set for the hearing and shall be published by the applicant in
8 at least one-quarter page size notice in newspapers of general
9 circulation, and by the commission in the manner specified in
10 chapter 120 in the Florida Administrative Weekly, by giving
11 notice to counties and regional planning councils in whose
12 jurisdiction the transmission line could be placed, and by
13 giving notice to any persons who have requested to be placed
14 on the mailing list of the commission for this purpose. Within
15 21 days after receipt of a request for determination by an
16 applicant, the commission shall set a date for the hearing.
17 The hearing shall be held pursuant to s. 350.01 within 45 days
18 after the filing of the request, and a decision shall be
19 rendered within 60 days after such filing.

20 (b) The commission shall be the sole forum in which to
21 determine the need for a transmission line. The need for a
22 transmission line may not be raised or be the subject of
23 review in another proceeding.

24 ~~(c)(b)~~ In the determination of need, the commission
25 shall take into account the need for electric system
26 reliability and integrity, the need for abundant, low-cost
27 electrical energy to assure the economic well-being of the
28 residents ~~citizens~~ of this state, the appropriate starting and
29 ending point of the line, and other matters within its
30 jurisdiction deemed relevant to the determination of need. The
31 appropriate starting and ending points of the electric

1 transmission line must be verified by the commission in its
 2 determination of need.

3 ~~(d)(e)~~ The determination by the commission of the need
 4 for the transmission line, as defined in s. 403.522(22) ~~s.~~
 5 ~~403.522(21)~~, is binding on all parties to any certification
 6 proceeding under ~~pursuant to~~ the Florida Electric Transmission
 7 Line Siting Act and is a condition precedent to the conduct of
 8 the certification hearing prescribed therein. An order entered
 9 pursuant to this section constitutes final agency action.

10 Section 67. Subsection (3) of section 373.441, Florida
 11 Statutes, is amended to read:

12 373.441 Role of counties, municipalities, and local
 13 pollution control programs in permit processing.--

14 (3) The department shall review environmental resource
 15 permit applications for electrical distribution and
 16 transmission lines and other facilities related to the
 17 production, transmission, and distribution of electricity
 18 which are not certified under ss. 403.52-403.5365, the Florida
 19 Electric Transmission Line Siting Act, regulated under this
 20 part.

21 Section 68. Subsection (30) of section 403.061,
 22 Florida Statutes, is amended to read:

23 403.061 Department; powers and duties.--The department
 24 shall have the power and the duty to control and prohibit
 25 pollution of air and water in accordance with the law and
 26 rules adopted and promulgated by it and, for this purpose, to:

27 (30) Establish requirements by rule that reasonably
 28 protect the public health and welfare from electric and
 29 magnetic fields associated with existing 230 kV or greater
 30 electrical transmission lines, new 230 kV and greater
 31 electrical transmission lines for which an application for

1 certification under the Florida Electric Transmission Line
2 Siting Act, ss. 403.52-403.5365, is not filed, new or existing
3 electrical transmission or distribution lines with voltage
4 less than 230 kV, and substation facilities. Notwithstanding
5 any other provision in this chapter or any other law of this
6 state or political subdivision thereof, the department shall
7 have exclusive jurisdiction in the regulation of electric and
8 magnetic fields associated with all electrical transmission
9 and distribution lines and substation facilities. However,
10 nothing herein shall be construed as superseding or repealing
11 the provisions of s. 403.523(1) and (10).

12

13 The department shall implement such programs in conjunction
14 with its other powers and duties and shall place special
15 emphasis on reducing and eliminating contamination that
16 presents a threat to humans, animals or plants, or to the
17 environment.

18 Section 69. Paragraph (a) of subsection (3) of section
19 403.0876, Florida Statutes, is amended to read:

20 403.0876 Permits; processing.--

21 (3)(a) The department shall establish a special unit
22 for permit coordination and processing to provide expeditious
23 processing of department permits which the district offices
24 are unable to process expeditiously and to provide accelerated
25 processing of certain permits or renewals for economic and
26 operating stability. The ability of the department to process
27 applications under ~~pursuant to~~ this subsection in a more
28 timely manner than allowed by subsections (1) and (2) is
29 dependent upon the timely exchange of information between the
30 applicant and the department and the intervention of outside
31 parties as allowed by law. An applicant may request the

1 processing of its permit application by the special unit if
2 the application is from an area of high unemployment or low
3 per capita income, is from a business or industry that is the
4 primary employer within an area's labor market, or is in an
5 industry with respect to which the complexities involved in
6 the review of the application require special skills uniquely
7 available in the headquarters office. The department may
8 require the applicant to waive the 90-day time limitation for
9 department issuance or denial of the permit once for a period
10 not to exceed 90 days. The department may require a special
11 fee to cover the direct cost of processing special
12 applications in addition to normal permit fees and costs. The
13 special fee may not exceed \$10,000 per permit required.
14 Applications for renewal permits, but not applications for
15 initial permits, required for facilities pursuant to the
16 Electrical Power Plant Siting Act or the Florida Electric
17 Transmission Line Siting Act may be processed under this
18 subsection. Personnel staffing the special unit shall have
19 lengthy experience in permit processing.

20 Section 70. Paragraph (b) of subsection (3) of section
21 403.809, Florida Statutes, is amended to read:

22 403.809 Environmental districts; establishment;
23 managers; functions.--

24 (3)

25 (b) The processing of all applications for permits,
26 licenses, certificates, and exemptions shall be accomplished
27 at the district center or the branch office, except for those
28 applications specifically assigned elsewhere in the department
29 under s. 403.805 or to the water management districts under s.
30 403.812 and those applications assigned by interagency
31 agreement as provided in this act. However, the secretary, as

1 head of the department, may not delegate to district or
2 subdistrict managers, water management districts, or any unit
3 of local government the authority to act on the following
4 types of permit applications:

5 1. Permits issued under s. 403.0885, except such
6 permit issuance may be delegated to district managers.

7 2. Construction of major air pollution sources.

8 3. Certifications under the Florida Electrical Power
9 Plant Siting Act or the Florida Electric Transmission Line
10 Siting Act and the associated permit issued under s. 403.0885,
11 if applicable.

12 4. Permits issued under s. 403.0885 to steam electric
13 generating facilities regulated pursuant to 40 C.F.R. part
14 423.

15 5. Permits issued under s. 378.901.

16 Section 71. Sections 403.5253 and 403.5369, Florida
17 Statutes, are repealed.

18 Section 72. By November 1, 2006, the Department of
19 Environmental Protection shall provide to the Governor, the
20 President of the Senate, and the Speaker of the House of
21 Representatives a report detailing the state's leadership by
22 example in energy conservation and energy efficiency. The
23 report must include a description of state programs designed
24 to achieve energy conservation and energy efficiency at
25 state-owned facilities, such as the guaranteed energy
26 performance savings contracting pursuant to s. 489.145,
27 Florida Statutes, and the inclusion of alternative fuel
28 vehicles in state fleets. The report must describe the costs
29 of implementation, details of the programs, and current and
30 projected energy and cost savings. The report must also set
31

1 forth recommendations on a rebate program for purchases of
 2 energy-efficient appliances.

3 Section 73. Section 403.885, Florida Statutes, is
 4 amended to read:

5 403.885 Water Projects ~~Stormwater management;~~
 6 ~~wastewater management; and Water Restoration~~ Grant Program.--

7 (1) The Department of Environmental Protection shall
 8 administer a grant program to use funds transferred pursuant
 9 to s. 212.20 to the Ecosystem Management and Restoration Trust
 10 Fund or other moneys as appropriated by the Legislature for
 11 water quality improvement, stormwater management, wastewater
 12 management, and water restoration and other water projects as
 13 specifically appropriated by the Legislature ~~project grants.~~

14 Eligible recipients of such grants include counties,
 15 municipalities, water management districts, and special
 16 districts that have legal responsibilities for water quality
 17 improvement, water management, stormwater management,
 18 wastewater management, lake and river water restoration
 19 projects, and ~~drinking water projects are not eligible for~~
 20 ~~funding~~ pursuant to this section.

21 (2) The grant program shall provide for the evaluation
 22 of annual grant proposals. The department shall evaluate such
 23 proposals to determine if they:

24 (a) Protect public health or ~~and~~ the environment.

25 (b) Implement plans developed pursuant to the Surface
 26 Water Improvement and Management Act created in part IV of
 27 chapter 373, other water restoration plans required by law,
 28 management plans prepared pursuant to s. 403.067, or other
 29 plans adopted by local government for water quality
 30 improvement and water restoration.

31

1 ~~(3) In addition to meeting the criteria in subsection~~
2 ~~(2), annual grant proposals must also meet the following~~
3 ~~requirements:~~

4 ~~(a) An application for a stormwater management project~~
5 ~~may be funded only if the application is approved by the water~~
6 ~~management district with jurisdiction in the project area.~~
7 ~~District approval must be based on a determination that the~~
8 ~~project provides a benefit to a priority water body.~~

9 ~~(b) Except as provided in paragraph (c), an~~
10 ~~application for a wastewater management project may be funded~~
11 ~~only if:~~

12 ~~1. The project has been funded previously through a~~
13 ~~line item in the General Appropriations Act; and~~

14 ~~2. The project is under construction.~~

15 ~~(c) An application for a wastewater management project~~
16 ~~that would qualify as a water pollution control project and~~
17 ~~activity in s. 403.1838 may be funded only if the project~~
18 ~~sponsor has submitted an application to the department for~~
19 ~~funding pursuant to that section.~~

20 ~~(4) All project applicants must provide local matching~~
21 ~~funds as follows:~~

22 ~~(a) An applicant for state funding of a stormwater~~
23 ~~management project shall provide local matching funds equal to~~
24 ~~at least 50 percent of the total cost of the project; and~~

25 ~~(b) An applicant for state funding of a wastewater~~
26 ~~management project shall provide matching funds equal to at~~
27 ~~least 25 percent of the total cost of the project.~~

28

29 ~~The requirement for matching funds may be waived if the~~
30 ~~applicant is a financially disadvantaged small local~~
31 ~~government as defined in subsection (5).~~

1 ~~(5) Each fiscal year, at least 20 percent of the funds~~
2 ~~available pursuant to this section shall be used for projects~~
3 ~~to assist financially disadvantaged small local governments.~~
4 ~~For purposes of this section, the term "financially~~
5 ~~disadvantaged small local government" means a municipality~~
6 ~~having a population of 7,500 or less, a county having a~~
7 ~~population of 35,000 or less, according to the latest~~
8 ~~decennial census and a per capita annual income less than the~~
9 ~~state per capita annual income as determined by the United~~
10 ~~States Department of Commerce, or a county in an area~~
11 ~~designated by the Governor as a rural area of critical~~
12 ~~economic concern pursuant to s. 288.0656. Grants made to these~~
13 ~~eligible local governments shall not require matching local~~
14 ~~funds.~~

15 ~~(6) Each year, stormwater management and wastewater~~
16 ~~management projects submitted for funding through the~~
17 ~~legislative process shall be submitted to the department by~~
18 ~~the appropriate fiscal committees of the House of~~
19 ~~Representatives and the Senate. The department shall review~~
20 ~~the projects and must provide each fiscal committee with a~~
21 ~~list of projects that appear to meet the eligibility~~
22 ~~requirements under this grant program.~~

23 Section 74. For the 2006-2007 fiscal year, the sum of
24 \$61,379 is appropriated from the General Revenue Fund to the
25 Department of Revenue for the purpose of administering the
26 energy-efficient products sales tax holiday.

27 Section 75. For the 2006-2007 fiscal year, the sum of
28 \$8,587,000 in nonrecurring funds is appropriated from the
29 General Revenue Fund and \$6,413,000 in nonrecurring funds is
30 appropriated from the Grants and Donations Trust Fund in the
31 Department of Environmental Protection for the purpose of

1 funding the Renewable Energy Technologies Grants program
2 authorized in s. 377.804, Florida Statutes. From the General
3 Revenue Funds, \$5,000,000 are contingent upon the coordination
4 between the Department of Environmental Protection and the
5 Department of Agriculture and Consumer Services pursuant to s.
6 377.804(6), Florida Statutes.

7 Section 76. For the 2006-2007 fiscal year, the sum of
8 \$2.5 million in nonrecurring funds is appropriated from the
9 General Revenue Fund to the Department of Environmental
10 Protection for the purpose of funding commercial and consumer
11 solar incentives authorized in s. 377.806, Florida Statutes.

12 Section 77. Except as otherwise expressly provided in
13 this act, this act shall take effect upon becoming a law.

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